MANAGEMENT PRACTICES OF THE IMMIGRATION AND NATURALIZATION SERVICE

104

Y 4. J 89/1: 104-1

Management Practices of the Immigra...

HEARING

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION AND CLAIMS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

FEBRUARY 8, 1995

Serial No. 1

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MANAGEMENT PRACTICES OF THE IMMIGRATION AND NATURALIZATION SERVICE

WEDNESDAY, FEBRUARY 8, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 2226, Rayburn House Office Building, Hon. Lamar Smith (chairman of the subcommittee) presiding.

Present: Representatives Lamar Smith, Carlos J. Moorhead, Elton Gallegly, Fred Heineman, Sonny Bono, Ed Bryant of Tennessee, John Bryant of Texas, Xavier Becerra, and Howard L. Berman.

Also present: Cordia A. Strom, counsel; George Fishman, assistant counsel; Judy Knott, executive assistant; and Paul Drolet, minority counsel.

OPENING STATEMENT OF CHAIRMAN SMITH

Mr. SMITH. The hearing of the subcommittee will now come to order.

The purpose of the hearing today is to examine the management practices of the INS, and before we call up our first witnesses I have an opening statement, then I would like to turn to the ranking minority member for his opening statement, and then to any other individual that might have an opening statement as well.

Let me begin by saying that I think very few subcommittees have the opportunity and the responsibility that this subcommittee does to affect the lives of so many people for so long. America has a wonderful tradition of generosity, and America has been for decades, and I am sure will continue to be, the most generous country in the world. It so happens that I believe that immigrants have been a positive force in America's history, and I think one reason America is strong economically, culturally, and in other ways today is because of the past waves of immigration that have come to our shores. And I also feel that it is because of the immigrants and the immigrants' desire to seek liberty and justice in America that they have helped sort of keep the ember of democracy glowing, and I think we have much to be grateful for when it comes to the contributions of immigrants.

Immigration is also a very sensitive and complex issue, as we all know, and I hope that the subcommittee can proceed objectively,

even judiciously, to carry out its responsibilities, and I expect to be able to do that. I also hope to be able to proceed in a bipartisan fashion. That doesn't mean necessarily a unanimous fashion, but a bipartisan fashion, on such a complex and sensitive issue.

I think that the subcommittee has much work to do. I expect us to be one of the most active subcommittees in Congress this year. We will begin weekly hearings as of today. We will go probably for months until we produce a bill, I hope, at the latest by this summer. I hope it will be comprehensive. We don't know the details of that yet. That will depend upon dozens of hearings and a hundred expert witnesses and the input of members of the subcommittee themselves. But I do expect to produce a comprehensive piece of legislation.

Let me say that one reason I think this committee has such a great responsibility and one reason why I want to see us produce in advance a comprehensive bill is simply because I feel that a real crisis exists in America today. It is a crisis that involves both illegal and legal immigration, and I say that for several reasons. I think any time, as we do now, where, for example, in Los Angeles County public hospitals last year two-thirds of the births were to illegal aliens, in Texas last year 40 percent of the Federal prisoners were criminal aliens, and it happens to be 25 percent across the country, and when you have it is estimated one-half of the illegal aliens using fraudulent documents to wrongly obtain government benefits and jobs, then I think you have a crisis on your hands.

In the case of legal immigration, which I have already spoken about and support, I think that we have a different kind of crisis there. We have problems that we have to address, hopefully we can help solve. We have a situation today where many individuals take advantage of loopholes in the law.

For example, about 80 percent of the legal immigrants who come into our country come in under a family preference rule. They are sponsored by individuals who say that they will be responsible for the financial well-being of the individuals whom they have sponsored. Well, it so happens that, for example, that affidavit is unenforceable, and the result is that many people take advantage of that.

We also, I think, need to look at some of the problems that are symbolized, for example, by the fact that in the last 10 years the number of immigrants who have applied for supplemental security income has increased 370 percent. That is 10 times the increase for American citizens.

And lastly, something that concerns me is that only about one-third of the legal immigrants today actually choose to become American citizens, and this is a great reversal from earlier in this century when so many people who were immigrants chose to become citizens. So I think that we have to address and should consider the problem of assimilation and what we can do to help individuals choose to give preference to being an American citizen.

Those are just some of the issues that we will be addressing in the coming months.

As far as the membership of this subcommittee goes, I just want to point out that, frankly, every member of this subcommittee is an expert on immigration. They either have a special interest in this

subject or they have a special expertise that they bring to this subcommittee. Every member of the subcommittee has either been in law enforcement or come from one of the major immigration States. In this case, I think we are outnumbered by the Californians, John, but Texas and Florida are also represented, and we will consider Massachusetts as well to be an immigration State. So I think that accounts for every member of the subcommittee.

But as I say, there is a lot of interest and a lot of expertise here which I hope to take advantage of.

Before I get to other opening statements, I would like to introduce the members of the subcommittee staff, at least on our side. Cordia Strom is our counsel, who is to my immediate right—you all don't need to make any comments; I just want to introduce you. George Fishman is the assistant counsel, and George is behind Cordia. Next week joining us will be Ed Grant as another assistant counsel. Cindy Blackston—where is Cindy—is our chief clerk. She has gone back to the office. And Judy Knott, who is an executive assistant who is keeping us orderly and mechanically sound this morning, is also on the staff.

Let me stop there and recognize the ranking minority member for any opening statement that he might have.

Mr. Bryant.

Mr. BRYANT of Texas. Thank you, Mr. Chairman.

Before I make a statement, I would like to introduce to the committee Paul Drolet, who was counsel to the Administrative Law Subcommittee last year when I was chairman and will be minority counsel of the Immigration Subcommittee.

I welcome all of the remarks just made by the chairman, and I endorse all the remarks just made by the chairman, which I think is a situation which is unique where the two party leaders in a committee, at least at this stage, have so many things in common with regard to the approach we ought to take. I think that this committee has a good opportunity to put together a bipartisan bill to deal with immigration, and I think it is every bit the problem that the chairman just articulated.

Having been a member of this subcommittee for a long time, I have sat through hours of tedious hearings on this topic, and we have frequently not come up with, in my view, suitable solutions. Certainly we haven't solved the problem even after 1986 when we passed that immigration bill that was so difficult to pass. I think it contributed a lot to solving the problem, but clearly it didn't contribute enough, and some of the things mentioned by the chairman we are going to have to examine this time.

I look forward to undertaking that task, and I think if we can, as a committee, call on our fellow partisans in their respective parties to try to move toward consensus and try to stay away from the sometimes publicly attractive extremes either on our side or on your side, we can come up with a bill that will really be in the public interest, and I look forward to doing that.

With regard to the hearing this morning, I would like to say that the INS has had a troubled history partly because of the fact that the country has had a hard time making up its mind about what it wants out of the agency and partly because there have been mistakes made by administrators over the last many years.

The Clinton administration has made a big effort to try to grapple with these problems and take the situation in hand and deal with it. Nevertheless, there are serious questions to be asked this morning, and I intend to ask them respectfully but pointedly of the INS's administrators about what has taken place in the last 18 months. I think we are only discharging our duty when we ask those questions, and they need to be answered, and I look forward to hearing the responses from the people that the chairman has called forward.

I yield back my time.

Mr. SMITH. Thank you, John.

Would any other Member like to be recognized for an opening statement?

The gentleman from California is recognized for 5 minutes.

Mr. BECERRA. Thank you, Mr. Chairman, and I won't take the 5 minutes. I do want to say that, given that this is an area that I have a great deal of interest in and have expressed an interest in many different ways, I want to welcome the chairman as the new chairman and tell him that he will have my utmost cooperation, as I believe Chairman Mazzoli had in this committee over the last session.

I, too, want to associate myself with the remarks of our ranking member, Mr. Bryant, who said that he welcomed everything that the chairman said. I, too, would like to say that I agreed with what the chairman said. There are some areas, I suspect, where we will find some disagreement, but I think for the most part the chairman is absolutely correct that we have people on this committee who know the issue of immigration, which oftentimes may not be the case for the entire Congress, and I am very much looking forward to working with the chairman and would agree with Mr. Bryant when he says that it is absolutely essential that we make every effort that we can on both sides of the aisle to come up with a joint piece of legislation because, quite honestly, for us to move and move aggressively the way we need to in the issue of immigration, it seems that we need to find that common ground, and I hope we can find it, and I believe we can.

I know that there are some issues that are of great interest to some of the Members. I am very concerned and will be asking the Immigration and Naturalization Service questions about naturalization, which the chairman raised. I think he is absolutely correct.

When we talk about dealing with the issue of immigration, there are some very significant highlights, and one of those is the efforts of people who are legally here to try to become part of the American mainstream, and oftentimes we neglect them because of the concerns with the low lights of the issue of immigration, and I think it is so important that we find out what efforts are being made to help those legal residents who are in every way contributing members of society—because they have to pay every single tax that a citizen does, they have the same responsibility that a citizen has when it comes to defending this country in a time of war, and they do everything they can to be abiding, upstanding residents of this Nation—as they do turn that corner to become eligible for citizenship, that we do everything we can to ensure that they have

that opportunity so that they can then take on those few things that they cannot do as noncitizens.

So I very much appreciate the words of the chairman, I very much look forward to working with each and every member of this committee, and I think that we will be productive because I really do believe that the Members that sought to be on this committee have in their heart the idea that immigration has been a benefit to this country and we should try to reward those who have done it the right way.

Thank you, Mr. Chairman.

Mr. SMITH. I thank the gentleman from California for his comments.

Are there any other opening statements?

If not, we will go to the first panel. The first witness is Dr. Laurie Ekstrand, Associate Director Administration of Justice, the General Government Division, the General Accounting Office. She is accompanied by James Blume, Administration of Justice Issues, General Government Division, General Accounting Office.

Dr. Ekstrand and Mr. Blume, I was going to invite you to come to the table; you are already there.

Let me say to you all that your official statements will be made a part of the record, without objection, and that we would welcome you all to summarize your statements in 5 minutes, if you will, and you know the procedure, so if you would begin, please.

STATEMENT OF LAURIE E. EKSTRAND, ASSOCIATE DIRECTOR, ADMINISTRATION OF JUSTICE ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JAMES BLUME, ASSISTANT DIRECTOR

Ms. EKSTRAND. Yes, sir. I am very pleased to be here today to discuss the management problems that confronted the Commissioner of the Immigration and Naturalization Service when she took office in November 1993 as well as the progress that has been reported since then.

As many members of the committee are well aware, GAO issued a series of reports in 1991 detailing a need for INS management reforms in a number of specific areas. Many of our recommendations were echoed by the National Academy of Public Administration study that followed ours, and more recently the National Performance Review has advocated INS management improvements.

INS appears to be aware of its substantial management challenge, has taken some actions, and seems to be planning others to address some of the problems. Let me discuss briefly some of these problems and the actions taken in more detail.

First, in 1991 we recommended that INS articulate a vision of how it is to operate to effectively carry out its role. The vision should establish a strategic management process that sets priorities and aids planning. Improved communication and policy setting as well as an accountability system should be part of this improvement. Last November INS issued a strategic planning document entitled "Towards INS 2000." This provides a vision statement, strategic directions, and associated goals and objectives. This document is consistent with what we called for in our 1991 rec-

ommendations. What lies ahead is the arduous process of bringing this document to life in the day-to-day operation of the agency.

Second, in relation to service delivery, our 1991 report noted that INS had chronic problems with timely processing of applications. In our 1994 report on INS user fees, we found some problems still remain in processing applications for benefits within the 4-month target period set by INS. For example, in New York and San Francisco the waiting time for naturalization applications was 7 months and 10 months, respectively. While there have been improvements, there are some localities where problems still exist.

In our December 1994 report concerning INS procedures for ensuring the authenticity of fingerprints submitted by applicants for benefits, we concluded that INS is planning a responsible approach to solving problems in this area, and this should be operational this fall.

Third, our 1991 report said that the INS budget development process was chaotic with weak controls over expenditures and revenues. We cited outmoded accounting systems, weak internal controls, and a lack of emphasis on financial management as contributing factors. According to INS officials, since 1993 they have made a number of changes in the budget development process that are intended to engage top INS executives in identifying priorities and making budget recommendations to the Commissioner that are based on these priorities. They also said that a system of accountability has been established for each unit and program. We have not done recent work in this budget area, so we cannot comment on how the budget process is working.

Fourth, in our earlier reports we indicated that INS managers and field officers did not have adequate, reliable, and timely information on aliens to effectively carry out their mission. Program and management data were kept in a loose collection of automated information systems as well as a number of ad hoc labor-intensive manual files. Inadequate alien information systems have allowed fraud against the Government, allowed inadmissible aliens to enter the country, hindered investigative efforts, and created substantial inefficiencies. INS has initiatives underway that include the development of an enforcement tracking system and an automated fingerprint system as well as enhanced computer linkages with other Federal agencies. Last year INS awarded two contracts totaling up to as much as $400 million for software development, computer support, and computer hardware.

Fifth, in 1991 we reported that INS's organizational structure had become decentralized without adequate controls. The regional structure hampered resource allocation and consistent program implementation. INS enforcement activities were divided between districts and Border Patrol sectors, resulting in uncoordinated, overlapping programs. A reorganization intended to mitigate some of these problems was completed in October 1994. It is far too early to tell what impact this reorganization will have in terms of improving the operation of INS. However, some areas of concern that we identified in our earlier work have not been addressed. The enforcement structure and the unclear division of responsibilities between investigations and Border Patrol is still problematic. We continue to believe that INS would benefit by consolidating all field

enforcement functions under a field structure that would centralize those operations under a single official within each geographic area.

In closing, INS management problems did not develop overnight and they will not be solved overnight. As INS deals with management issues, we should not lose sight of the fact that they also face substantial demands for services and enforcement: Processing almost half a billion people a year for entry into this country, reducing the backlog of aliens requesting asylum, meeting the demands for naturalization and other benefits, identifying and removing criminal aliens, and stemming the flow of illegal aliens. They must also respond to crisis situation such as the influx of Haitians and Cubans last year. Progress in resolving these management problems will require a sustainment commitment by both INS and the Department of Justice. Continued congressional oversight would also be useful in ensuring that INS is making timely and measurable progress.

We would be very happy to work with this subcommittee on the many management and program-related issues that are on your agenda for this session of Congress.

That concludes my statement.

[The prepared statement of Ms. Ekstrand follows:]

PREPARED STATEMENT OF LAURIE E. EKSTRAND, ASSOCIATE DIRECTOR, ADMINISTRATION OF JUSTICE ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the management and program-related problems that confronted the Commissioner of the Immigration and Naturalization Service (INS) when she took office in November 1993. Many of these problems persist; however, INS seems to be aware of them and appears to be making some progress toward addressing them. My testimony, which is based on our prior reports,[1] many of which were done for this Subcommittee, and recent information obtained from INS, is an update of our October 1994 testimony before this Subcommittee.[2]

INS' efforts to address management problems must proceed while the agency deals with substantial demands for services and enforcement. The backlog of aliens requesting asylum is large and growing. The demand for naturalization and other benefits is such that INS cannot meet its own processing time goal in some districts. In fiscal year 1993, almost 500 million people were processed for entry into the United States. The identification and removal of criminal and illegal aliens is an enormous problem. The flow of aliens across the Southwest border continues, and violations of the conditions of legal entry are commonplace. Crisis situations that the INS must respond to, such as last year's influx of Haitians and Cubans, add to its workload.

The management problems at INS did not develop overnight, and they will not be solved overnight. Progress will require a sustained commitment from both INS and the Department of Justice. Further, continuous congressional oversight will be needed to ensure that INS is making timely and measurable progress.

BACKGROUND

Two main components of INS are intended to fulfill its responsibilities—enforcement and service. The enforcement component's responsibilities include preventing unlawful entry, employment, and receipt of benefits (e.g., asylum or naturalization)

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[1] *Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems* (GAO/GGD–91–28, Jan. 23, 1991); *Financial Management: INS Lacks Accountability and Controls Over Its Resources* (GAO/AFMD–91–20, Jan. 24, 1991); and *Information Management: Immigration and Naturalization Service Lacks Ready Access to Essential Data* (GAO/IMTEC–90–75, Sept. 27, 1990).

[2] *INS: Management Problems and Program Issues* (GAO/T–GGD–95–11, Oct. 5, 1994).

by those not entitled to them. Enforcement is also responsible for apprehending, detaining, and/or removing those aliens who enter or remain illegally in the United States. The service component's responsibilities include facilitating the entry of persons legally admissible as visitors or as immigrants to the United States. The service component is also responsible for providing assistance to those seeking asylum or naturalization.

INS budget has grown substantially since the passage of the Immigration Reform and Control Act of 1986.[3] In fiscal year 1986, INS' budget was about $575 million. The fiscal year 1995 budget request, excluding user fees, was about $1.4 billion.[4] In addition, its user fee accounts are expected to provide about $680 million in 1995. The fee revenues are used to cover such costs as processing aliens' requests for benefits (e.g., asylum). The user fees were established by two acts—the 1987 and 1989 Department of Justice Appropriation Acts.[5]

Management Problems

INS management problems have been cited by us and others. In our 1991 management report, we said that the major management problems that had plagued INS needed immediate attention. We pointed out that INS needed to develop a vision and a strategic plan that would guide the agency's operations. We also said that INS management needed to remedy significant weaknesses in its budget development, financial management, program-related information management, and organizational structure. We will discuss the problems in relation to each of these areas in turn and summarize INS' actions or plans to address these management problems.

VISION

In 1991, we recommended that INS articulate a vision of how it is to operate to effectively carry out its role. The vision should (1) establish a strategic management process that identifies priorities and aids planning, (2) improve communications and policy setting, and (3) establish accountability systems.

In November 1994, INS issued its vision statement, as part of its strategic plan—*Toward INS 2000 Accepting the Challenge.* INS' vision and strategic plan is responsive to our 1991 recommendation. Its vision statement "calls for an agency whose effectiveness helps defuse the tensions that inherently surround immigration processes." It recognized that international migration pressures will intensify and are becoming issues of significant global concern. It said that generous immigration policies can persist only if the public has confidence in the Government's ability to admit people according to rules that are fair but firm. Therefore, INS' performance and capabilities are to play a central role in building and maintaining that public confidence.

Its strategic plan articulates INS' mission and responsibilities, and provides strategic direction for guiding decision and policy making within INS. The plan lists eight program goals, related objectives, and actions INS plans to take to meet the objectives and thereby help to accomplish the goals. INS managers are to be held accountable for achievement in relation to the agencys goals.

DELIVERY OF SERVICES

In 1991, we said that INS had not taken sufficient action to address service delivery problems. We pointed out that INS had a chronic problem with not processing applications for immigration benefits (e.g., aliens requesting naturalization) within its 4-month time frame.

In our 1994 report on INS user fees,[6] our analysis of INS' workload in its four largest districts showed that it did not allocate its staff in proportion to its estimated workload. We said that about 80 percent of the applicants could expect to wait 4 months or less for their applications to be processed. However, the expected waiting times for two of the four districts included in our review exceeded 4 months; in New York and San Francisco the waiting times for naturalization applications

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[3] INS is responsible for enforcing the act's requirement that employers only hire workers who are authorized to work.

[4] The request includes $264.2 million from the Crime Control Fund. The budget figures are not adjusted for inflation.

[5] P.L. 99–591, 100 Stat. 3341, 3341-53 (1986) and P.L. 100–459, 102 Stat. 2186, 2203 (1988).

[6] *INS User Fees: INS Working to Improve Management of User Fee Accounts* (GAO/GGD–94–101, Apr. 12, 1994). Our review was of INS' two major fee accounts—the Immigration Examinations Fee Account and the Immigration User Fee Account. These two accounts represent about 99 percent of INS' total user fee account revenue.

took 7 and 10 months, respectively. According to an INS official, the conversion to service center processing caused temporary distortions in district staffing levels. Further, in fiscal year 1994, INS could not hire staff and expand its automation because its revenue projections did not materialize. As a result, INS was not able to fully resolve the district staffing problem.

We recently issued a report related to INS' processing of aliens' applications for permanent residency and naturalization. As part of the process, aliens are required to submit completed fingerprint cards with their applications so a criminal records can be obtained. A criminal conviction can result in denial of the application. In February 1994, the Department of Justice Office of Inspector General (OIG) reported[7] that INS did not verify that fingerprints submitted by applicants actually belonged to those who submitted them. Our report focused on the actions INS was taking in response to the OIG report to ensure the authenticity of aliens' fingerprints.[8] We concluded that INS was planning a responsible approach to ensure fingerprint authenticity, but the process will not be operational until the fall of 1995.

BUDGET DEVELOPMENT AND FINANCIAL CONTROLS

In 1991, we said that INS' budget development process was chaotic. It had evolved with weak controls over expenditures and revenues, which significantly impeded INS managements ability to address program weaknesses. Its budget process suffered from the lack of agencywide priorities and as a result had degenerated into an annual competition among narrow parochial program interests. In addition, we reported that INS did not have fiscal accountability over its resources. Its outmoded accounting systems, weak internal controls, and lack of management emphasis on financial management had contributed to this situation.

According to INS officials, INS changed its budget process and strengthened its financial controls over its resources in fiscal year 1992. They said that, beginning in January 1993, the Commissioner established an open and participatory process at the executive level. With respect to budget formulation, the Commissioner is to identify agencywide priorities (e.g., strengthen border control) and use teams of program managers to identify integrated program approaches and associated costs. After group discussions and analytical briefings, senior INS executives are to make recommendations to the Commissioner on priorities for budget formulation, allocations for budget execution, and other resource issues that have an agencywide effect.

Concerning INS' budget execution, INS officials said that each unit (e.g., district) and program (e.g., detention and deportation) is informed of its specific budget and is held accountable for managing within its budget. Each budget is to include operating and personnel costs and to enable managers to project the impact of anticipated events on their budget for the year. According to the officials, this process establishes controls over resources and provides accountability. We have not done any recent audit work in this area, so we do not know how well the new budget process is working.

Concerning financial controls, INS officials said that, since fiscal year 1992, quarterly financial reports have been prepared for INS nationwide, encompassing every program and field office. The reports were designed to allow INS managers to monitor receipts from the INS fee accounts. Further, these reports are to provide managers with the information necessary to detect and address potential problems in a timely manner by comparing budget allocations with obligations and projected spending. In addition, INS has appointed the Executive Associate Commissioner for Management as its Chief Financial Officer.

ALIEN-RELATED PROGRAM INFORMATION

In 1990, we reported that INS' managers and field offices did not have adequate, reliable, and timely information on aliens to effectively carry out their mission. INS' information management problems included program and management data being kept in a loose collection of automated information systems as well as a number of ad hoc, labor-intensive manual systems. These information systems contained incomplete and inaccurate data that could not be effectively accessed or shared.

According to INS, its information systems had: Allowed fraud against the United States; required INS agents to spend excessive time on administration; hindered its investigative efforts; hampered INS in obtaining timely, reliable information; al-

[7] U. S. Department of Justice Office of Inspector General, *Alien Fingerprint Requirements in the Immigration and Naturalization Service* (Feb. 16, 1994).

[8] *INS Fingerprinting of Aliens: Efforts to Ensure Authenticity of Aliens' Fingerprints* (GAO/GGD–95–40, Dec. 22, 1994).

lowed inadmissible aliens entry to the country; and created cases of mistaken identity.

According to INS officials, even with these problems, INS continues to need the information systems, including computers, to assist its personnel in their efforts in dealing with aliens. They added that INS' effectiveness could be increased by (1) automating its paper files, (2) building computer networks to expediently disseminate immigration information, and (3) developing automated case tracking systems. INS has initiatives under way, such as developing an enforcement tracking system and automated fingerprint system, building computer networks with other agencies such as the Customs Service and the Department of State, installing new computer equipment with the capability of storing more information and transferring files faster, identifying and tracking criminal aliens by linking INS systems with other Justice systems, and expanding the system employers can use to verify work eligibility. In addition, INS has awarded two contracts for more than $400 million to develop software and support services for INS' entire operations and to obtain computer hardware.

DECENTRALIZED ORGANIZATION STRUCTURE

In 1991, we said that historically INS leadership had allowed the organizational structure to become decentralized without adequate controls. Its regional structure created geographical separation among INS programs and hampered resource allocation and consistent program implementation. The field structure to carry out INS' enforcement activities was bifurcated between districts and Border Patrol Sectors, resulting in uncoordinated, overlapping programs. We identified several instances where coordination among INS' various enforcement units created problems in specific cases. For example:

In February 1990, antismuggling agents from the Border Patrol office nearly arrested suspects who were the subjects of Investigation's surveillance.

In June 1990, Border Patrol agents were involved in a fraud case that was directly related to an Investigation case.

In the above examples, the separate INS enforcement units were not aware of each other's cases.

In 1990, the then Commissioner began to centralize some of the budget and personnel functions and proposed a revised organizational structure. The proposed changes were not fully implemented. In 1994, the newly appointed Commissioner proposed a different organizational structure to restore authority to the field level and remove it from program managers (e.g., investigations) in headquarters. The reorganization was completed on October 1, 1994. It (1) reestablished the position of Deputy Commissioner with the traditional role of chief operating officer for the Service; (2) established four positions under the Deputy—the Executive Associate Commissioners for Management, Field Operations, Programs, and Policy and Planning; and (3) reduced the four regions to three with the regional directors having operational authority over the field offices in their areas. The reorganization centralizes authority over field operations under the Executive Associate Commissioner for Field Operations.

We cannot determine the extent to which the 1994 reorganization will address the problems that we identified. It does not, however, address the dual enforcement structure coupled with the unclear division of enforcement responsibilities between Investigations and the Border Patrol. As we have said previously, we continue to believe that INS could benefit by consolidating all field enforcement functions under a revised field structure that would centralize all enforcement functions under a single official within each geographic area.

OTHERS IDENTIFIED INS PROBLEMS

When our 1991 report was being finalized, the Department of Justice asked the National Academy of Public Administration (NAPA) to provide advice on a management improvement strategy for INS. In its report, NAPA made a number of recommendations relating to INS' organization, executive leadership, human resources, financial management, and information technology.[9] NAPA generally agreed with the message of our report, and its recommendations were built on our report. Recently, the National Performance Review (NPR) also recognized the need for INS to improve its management. In our report on NPR, we concurred with its recommendation that INS improve its management.[10]

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[9] *Managerial Options for the Immigration and Naturalization Service,* NAPA, Feb. 1991.

[10] *Management Reform: Implementation of the National Performance Review's Recommendations* (GAO/OCG–95–1, Dec. 5, 1994).

Program-Related Issues Affecting INS

In addition to the management problems that have been identified, program issues continue to demand INS' attention. These problems include (1) stemming the flow of illegal aliens across the border, (2) deciding which aliens to detain, (3) identifying and removing illegal and criminal aliens, (4) enforcing the employment of only authorized workers, and (5) processing aliens' requests for asylum.

ILLEGAL ALIEN ENTRY

As we pointed out in our 1993 testimony,[11] INS is confronted with the problem of preventing millions of aliens from entering the country illegally. Our prior work had shown that INS had difficulty in removing illegal aliens once they entered the country and had limited space to detain aliens it apprehended. Therefore, we concluded that the key to controlling the illegal alien population is to prevent their initial entry. In July 1994, INS announced a phased, multiyear plan to control the U.S. borders, starting with the Southwest border. The Border Patrol plans to increase the number of agents and the use of technology (e.g., electronic detection equipment). The plan directs intense enforcement efforts in areas of greatest illegal activity to gain maximum control over the border and shifts INS' emphasis from detection of illegal alien entry to prevention of illegal entry. In our December 1994 report,[12] we concluded that the new national border control strategy shows promise for reducing illegal entry since the strategy (1) builds on the reported success the San Diego and El Paso sectors have had in reducing illegal immigration, (2) is consistent with recommendations made in previous comprehensive studies conducted by border control and physical security experts, and (3) has widespread public and government support. However, since it will take several years to implement the strategy, it is too early to tell what impact it will eventually have on drug smuggling and illegal immigration along the southwest border.

In an effort to control the flow of illegal aliens crossing the Southwest Border, the Congress is considering providing 3,000 additional Border Patrol agents above its 1995 fiscal year level of 6,233. The proposed Border Patrol increase is part of an expansion from its fiscal year 1988 level of almost 4,000 agents.

INS DETENTION

In June 1992, we pointed out that INS apprehended hundreds of thousands of aliens but could detain very few of them.[13] As a result, INS released some criminal aliens and did not pursue illegal aliens who were not known to be felons because it did not have the detention space to hold them. In addition, we found that INS did not treat aliens consistently; some were released within a few days, while others remained in detention for extended periods. Given the current projected availability of beds for detention (about 8,600 by 1996) and the large number of illegal aliens who INS could detain (about 500,000), problems related to detention are unlikely to abate. This further supports the need to stop illegal entry of aliens.

DEPORTING ALIENS

In our October 1989 report on deporting aliens from the country, we pointed out that INS had not been effective in deporting aliens.[14] This continues to be a problem. In June 1994, the Commissioner said that over half of the illegal alien population initially entered the United States legally but then overstayed their period of admission. She added that no effective means exist to locate and arrest these aliens. With respect to criminal aliens, INS did not know how many prisoners in state and local prisons were deportable criminal aliens. Currently, INS is trying to identify criminal aliens who are serving their sentences and complete their deportation hearings so that when they finish their sentences they can be deported immediately.[15] According to INS, by 1997 it will be able to identify and determine the number of criminal aliens in the five states with the highest concentration of crimi-

[11] *Immigration Enforcement: Problems in Controlling the Flow of Illegal Aliens* (GAO/T–GGD–93–39, June 30, 1993).

[12] *Border Control: Revised Strategy Is Showing Some Positive Results* (GAO/GGD–95–30, Dec. 29, 1994).

[13] *Immigration Control: Immigration Policies Affect INS Detention Efforts* (GAO/GGD–92–85, June 25, 1992).

[14] *Immigration Control: Deporting and Excluding Aliens From the United States* (GAO/GGD–90–18, Oct. 26, 1989).

[15] Under the institutional hearing program, immigration judges hold deportation hearings for criminal aliens while they are still incarcerated.

nal aliens.[16] In our November 1994 report, we estimated that 16,162 illegal alien inmates were in California alone. The estimated incarceration cost for these inmates was $360 million.[17]

EMPLOYER SANCTIONS

According to the Commissioner, employer sanctions remain INS' key enforcement strategy against noncriminal aliens who are illegally in the United States. However, in our September 1994 testimony before this Subcommittee, we pointed out that INS' employer sanctions enforcement efforts had declined from fiscal year 1989 through 1993.[18] INS told us that they plan to (1) institute a national sanctions program that will target industries historically reliant on illegal alien labor, (2) conduct follow-up investigations of previously sanctioned employers to identify repeat offenders, and (3) follow up on about 36,000 potential employer sanctions violations that have been previously identified by others.

ASYLUM

Aliens who are here legally or illegally can apply for asylum. By February 1995, the backlog of asylum cases is expected to reach 600,000. INS' new regulations designed to streamline the asylum review process were effective January 4, 1995. While the new regulations may help INS stay current with incoming applications, it does not address reducing the enormous backlog. INS hopes to reduce the backlog by increasing resources and application processing productivity.

CONCLUSIONS

INS has many efforts under way that could bring about management improvement. These include the formulation of a vision and associated strategic plans, a new budget formulation process and enhanced financial controls, and new information management systems and hardware. INS is also adopting some program changes, such as a prevention strategy at the border, a more streamlined asylum processing system, and enhancing the institutional hearing program in five states, that could improve program performance. Careful monitoring will be needed to ensure that these efforts bring about measurable progress toward management improvement, and to identify any other needed improvements. We will be happy to work with this Subcommittee on the many management and program related issues that are on your agenda for this session of Congress.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions.

Mr. SMITH. Thank you, Dr. Ekstrand, for your testimony.

I doubt that we will have as many questions for you as we do for the INS, but I do have a couple.

Ms. EKSTRAND. And not as hard.

Mr. SMITH. I know that the GAO has conducted official investigations of the INS, I think in 1990 and 1991. You just referred to sort of ongoing communications with the INS as recently as 1994. My question is, what do you think are the major problems that continue to exist? The INS has obviously made improvements along the way. What are some of the major problems that we need to be aware of that still exist?

Ms. EKSTRAND. In terms of management problems?

Mr. SMITH. Yes, in terms of management and the need for management reform.

Ms. EKSTRAND. Well, I think that we still do have some questions about the reorganization and whether it will really get at the dual enforcement problems. I think those are very basic. I think that this reorganization hasn't had time to be tested, and I think we

[16] These states are California, Florida, Illinois, New York, and Texas.

[17] *Illegal Aliens: Assessing Estimates of Financial Burden on California* (GAO/HEHS–95–22, Nov. 28, 1994).

[18] *Employer Sanctions: Comments on H.R. 3362—Employer Sanctions Improvement Act* (GAO/T–GGD–94-189, Sept. 21, 1994).

need to be careful to look at that over time to see if it really has solved a lot of the basic problems.

I also think that the vision statement is a good first step, but getting that operational so that all of the pieces of the puzzle in INS are moving toward bringing that vision statement to fruition, that really can't be underestimated. That is a big concern.

Mr. SMITH. OK.

I was going to allow you all to consult if you wish.

Ms. EKSTRAND. Thank you. We will pass.

Mr. SMITH. OK.

The next question is, under the President's budget which was just released in the last couple of days, he proposes increasing the budget of the INS I think 27 percent, and I certainly agree in theory with the need to give additional funds to the INS, at least 27 percent, if not more. But given the INS's management problems, do you think they can actually use the additional funds in an efficient and responsive manner?

I know, for example, last year that the INS actually, I think, returned $3 million to the Treasury despite what I would consider to be a great demand on their services, and I intend to ask about that in just a few minutes. But meanwhile, do you think, given the management structure problems, are they going to be able to cope with another increase of 27 percent in their budget?

Ms. EKSTRAND. I think it is really hard for any large organization to cope with a big change like that all at once. I think that probably any more than that might be very difficult. I know they had roughly the same level of increase last year. Now maybe this past experience would make them be able to handle the increase in a little bit more organized way, but I think that we have to expect some problems with getting up to speed with the additional funds.

Mr. SMITH. Do you have any recommendations for how they might do that if they are going to have difficulty getting up to speed?

Ms. EKSTRAND. Well, I think they have to learn from their past experience last year and try to take a real critical look at lessons learned from that experience to see what kinds of things they could put in place to get over some of the glitches that may have occurred last time.

Mr. SMITH. OK. Thank you.

I don't have anymore questions. I am going to yield to my colleague from Texas for 5 minutes, Mr. Bryant.

Mr. BRYANT of Texas. Thank you.

Ms. Ekstrand, in your written statement on pages 5 and 6 you discuss the agency's allocation of resources and point out that waiting times in some places are extremely long and in others not quite so long. You made specific reference to New York and San Francisco. Has the INS shifted resources or taken other steps to try to address these regional disparities?

Mr. BLUME. Yes, sir. The service centers concept in which they are trying to do as much processing in three or four locations—I think it is four locations—rather than in the districts will at least have the appearance of trying to reduce the time lag.

Mr. BRYANT of Texas. You stated on page 6 that one of the INS representatives explained that some of their problems in fiscal year 1994 were due to the fact that the Service's revenue projections did not materialize. But isn't it true that the Service substantially underestimated its revenue for 1994? And if that is the case, how do you square that fact with their claim that revenue had not materialized?

Mr. BLUME. I am not sure that there is a major difference. Maybe I am misunderstanding you, sir, but as far as we understand, the revenue they estimated just did not materialize. Therefore, they didn't have the resources they anticipated having to spend on processing aliens' requests for benefits.

Mr. BRYANT of Texas. But my understanding is that they underestimated their revenue.

Mr. BLUME. That is correct—well, what they did is, they did projections, then made expenditure commitments to try and spend the money based upon what they thought they were going to get from the revenue funds from their user fee accounts.

Mr. BRYANT of Texas. That is what I am getting at. If you say that—if they say or you say, whoever, that they underestimated their revenue, how can they explain problems later on by saying that money didn't come in? If they got more than they thought they were going to get, how can they blame the problems on the fact they didn't get money?

Mr. BLUME. They got less than what they expected. They underestimated the revenue. In other words, they projected a larger income from their user fee revenues. That didn't materialize, but they had made financial commitments during the year based upon those projections, and they had to cut back. I think we are miscommunicating.

Mr. BRYANT of Texas. Yes, it may be that I misunderstood what they said. I understood that they said that their problems were a result of the fact that they didn't get as much money as they thought they were going to get. But my understanding is that, in fact, they estimated that they would have less revenue than they actually got.

Mr. BLUME. The bottom line eventually when the figures did come out, they did end up with more revenue than they actually anticipated; that is, the shortfall was smaller than they anticipated, but by that time they had made cutbacks in their providing of service. In other words, they projected a revenue of, I forget the figure off the top of my head, but then they had a shortfall that started to materialize, and that shortfall wasn't as great as they did anticipate, so therefore they had to cut back on the services.

It is sort of like they expected to get—I'll make up a figure—$100 million. They didn't get $100 million, they got something less, and then they started to see the figures coming in around $80 million, and what then happened was, instead of being short the $20 million, they were really short maybe $10 million, but by that time they had already made cutbacks in their services.

Mr. BRYANT of Texas. Maybe I can pursue that with them a little more.

In your statement you discuss also the issue of budget development and fiscal controls and stated that the agency has reported

that since fiscal year 1992 it has had in place a system of quarterly financial reports that are designed to give managers the necessary information to detect potential problems, and the reports seem designed in part to allow the managers to monitor receipts from the INS fee accounts. Have you received these quarterly reports?

Ms. EKSTRAND. No, sir.

Mr. BRYANT of Texas. Have you made any kind of an assessment as to their accuracy?

Ms. EKSTRAND. No, sir, we haven't looked at those reports.

Mr. BRYANT of Texas. Are you able to say whether or not it is the case that they substantially underestimated their user fee revenues? That may be the same thing we were just talking about.

Ms. EKSTRAND. No, we haven't looked at those reports, so we don't have an assessment of them.

Mr. BRYANT of Texas. OK. The ultimate question I was leading to is, how is it that they underestimated them? If you can't render a judgment on that, that is all right.

Ms. EKSTRAND. I'm sorry, we haven't looked at that.

Mr. BRYANT of Texas. OK.

Have you made an assessment of their progress in developing and installing information management? I know you mentioned a great deal of money has been spent on hardware and software.

Ms. EKSTRAND. No, sir. My understanding is, quite a bit of that has been in installing hardware, and, you know, they certainly have done a lot of that, but they still have a long way to go in terms of integrating systems.

Mr. BRYANT of Texas. But you have not reached any judgment about whether their decisions with regard to those things were good or bad?

Ms. EKSTRAND. No, we have not looked at that since they awarded those contracts.

Mr. BRYANT of Texas. That is all the questions I have.

Mr. SMITH. Thank you.

The gentleman from California, Mr. Gallegly, is recognized for 5 minutes.

Mr. GALLEGLY. I have no questions of this witness, Mr. Chairman. I do have some for our next panel though.

Mr. SMITH. OK. We will go to another gentleman from California, Mr. Becerra, for 5 minutes.

Mr. BECERRA. Thank you, Mr. Chairman.

Let me ask a few questions with regard to what you found with regard to the INS's work on naturalization. Did you find that they had allocated any additional resources from the previous year for the purpose of reducing the workload they have right now for naturalization?

Ms. EKSTRAND. Right now? We haven't looked at naturalization in quite some time, so I really can't answer that question.

Mr. BECERRA. You didn't take any look whatsoever at naturalization, the issue of naturalization, within the INS during your examination of the agency?

Ms. EKSTRAND. In the user fee report, naturalization was part of it, because of the user fee aspect of naturalization, and we did find the delays, as the testimony indicates. But whether they have improved since then we don't know.

Mr. BECERRA. Is there any reason why you didn't take a closer look at whether or not they have done anything to improve their processing of naturalization claims?

Ms. EKSTRAND. More recently than this report?

Mr. BECERRA. Yes.

Ms. EKSTRAND. We have been engaged in other work related to immigration and other general work in the Justice area.

Mr. BECERRA. But your charter or your mission was not to exclude naturalization when you reviewed the INS?

Ms. EKSTRAND. No, sir. No.

Mr. BECERRA. So it would be within your purview to review the naturalization component of their work?

Ms. EKSTRAND. It would be within our purview, but it was not related to a specific report we have ongoing now or specific work we have ongoing now.

Mr. BECERRA. Which relates to what? The ongoing work is?

Ms. EKSTRAND. Well, we are starting several new jobs. We just finished work in relation to the authenticity of fingerprints. Now we are starting work looking at interior Border Patrol stations, looking at the whole criminal alien issue, and we have some planned work to revisit many of the issues that were in our general management review in 1991, but they are just starting.

Mr. BECERRA. And the authority for you to go ahead and do those particular projects, examination projects, comes from what?

Ms. EKSTRAND. Well, we have basic legislative authority to do audit work related to government programs, but most of our work is usually requested by chairpersons of committees. In this case because this subcommittee has just started, we are not quite in that situation, but we probably will be.

Mr. BECERRA. In any of the requests that you receive from Chairs or Members of Congress or those who would ask you to do some of this auditing work, have you been asked to exclude research on naturalization?

Ms. EKSTRAND. No, sir.

Mr. BECERRA. Would there be any reason for you not to include research of naturalization?

Ms. EKSTRAND. No reason not to.

Mr. BECERRA. Would it be possible for you to include research on naturalization?

Ms. EKSTRAND. We certainly give priority to pursuing requests from chairpersons and ranking minority members of committees of jurisdiction, and I understand your interest.

Mr. BECERRA. So requests from Members and members on the committee of jurisdiction, would that be of some assistance to you in deciding whether you should be able to do some work in auditing that particular component of the INS's work?

Ms. EKSTRAND. To the extent we have the resources available, we try to honor requests from Members. It is often very hard to do, given the resources we have.

Mr. BECERRA. Do you have the resources to do the work?

Ms. EKSTRAND. Do we have them today? Probably not. We can certainly discuss this. You know, it is certainly not an issue we are intending to deliberately slight.

Mr. BECERRA. I agree, but while I have you on the record, you are saying that you at this stage would not have resources to do additional work within the INS to examine the naturalization component?

Ms. EKSTRAND. I really can't answer definitively. It depends on all the other resources that are already appropriated in the Justice area of GAO.

Mr. BECERRA. Well, let me ask, given what you have already identified within the report that does deal with naturalization where you mentioned that in some cases there are 7- to 10-month delays in places like New York to process a naturalization claim by people—and I know in Los Angeles and San Jose it is much more than 7 to 10 months, when you have over 900 to 1,000 people applying per day to become naturalized citizens—given that you know that that is out there, would you think that that would be an important component to examine within the INS's progress in improving its services?

Ms. EKSTRAND. It certainly seems like an important component to examine. Especially since there will be many, many more people applying for naturalization who were legalized by IRCA, the time for that to happen is now.

Mr. BECERRA. And that is a good point. We now have individuals who, as I understand, as of the end of this year will become eligible for citizenship. These are people who applied for amnesty and now become eligible. So I hope what I hear you saying is, that is an important topic and something that you would like to be able to examine if you had the resources and could fit it in within your own constraints.

Ms. EKSTRAND. I would say that is a fair assessment.

Mr. BECERRA. Thank you.

Mr. BLUME. Could I just make one statement, sir. The report we did on user fees has approximately 21 Members and two chairman both on the Republican—I mean on the Senate as well as the House, and in that report we specifically included naturalization cases as examples of the user fee process. So that does address a lot of the questions that you may have. Again, we would be more than happy to talk to you.

Mr. BECERRA. Thank you.

Thank you, Mr. Chairman.

Mr. SMITH. The gentleman's time has expired, but I would like to know if the gentleman from California's earlier line of questioning was directed toward the proposed cuts in the GAO at all.

[Laughter.]

Ms. EKSTRAND. My comments were directed toward that.

Mr. SMITH. Let me say to my friend from California that there's not many times I appreciate diffused answers, Dr. Ekstrand, but I appreciated yours today.

Before we go to the next Member of Congress, I would like to recognize Mr. Bryant for a followup question to his earlier questions.

Mr. BRYANT of Texas. Yes, I was trying to get to a point that we never did really connect on, and maybe you all haven't reached any judgment about it, but to restate it again, the agency, as I understand it, dramatically underestimated its revenues, and then sud-

denly this windfall of $64 million in excess of what they estimated showed up.

The result was though that, while they thought they weren't going to get the money, they cut your operations way back, and of course that meant services and everything we wanted the agency to do were cut back; things that this committee and the Congress want them to do were cut way back. It was a huge—they missed it by a mile, to put it in the vernacular. The question is, how did they miss it so far?

Ms. EKSTRAND. I don't really know, but it certainly called their estimation process into question. I don't know what variables they are using to estimate what the user fee account balance is going to be.

Mr. BRYANT of Texas. You didn't look at their system of estimating?

Ms. EKSTRAND. No, sir.

Mr. BLUME. We understand it was a straight line projection, sir, based upon the prior years, but we have not analyzed that, and I think that is what contributed to the problem.

Mr. BRYANT of Texas. And what happened as a result when, having vastly underestimated, they cut the operation significantly—I think I saw the figure 20 percent below what it would have been operating at. Then they get this big chunk of money. What happened with the money?

Mr. BLUME. It goes into the user fee account, and then they can try and start spending it by cranking the system back up, but I don't really know what they did with it.

Mr. BRYANT of Texas. You don't know what they did with the money. OK.

Mr. BLUME. No, sir.

Mr. BRYANT of Texas. Thank you.

Mr. SMITH. We will go to the gentleman from California Mr. Bono, who is recognized for 5 minutes.

Mr. BONO. Just briefly. I don't have a lot of questions, because I think there is a tremendous lack of data here, and, really, to achieve any goals you do have to have some data to work off, and the appearance that I get anyway is this vacuum of data that exists, and somehow that has to be chased down before we can do anything effectively whatsoever, and I guess if I had a question, the question would be, you know, is there any way that we could pursue this quest for more data to give us a direction to move in?

Ms. EKSTRAND. We have been talking to the chairman's staff about work that we plan to do to follow up in relation to the general management review we did in 1991. We are just starting this process, and one reason why we didn't start earlier was because we thought that it was appropriate to give the Commissioner some opportunity to have her impact on the agency before we tried to assess how things were going. She has been in office about 16 months now, and it seems an appropriate time to start doing that.

Mr. BONO. Thank you.

I think that is probably one of the goals we will have to pursue, is to get as much accurate data as possible to see a starting point or finishing point.

Thank you.

Mr. SMITH. Dr. Ekstrand, we don't have any further questions for you. Thank you for your testimony and for your answers. We appreciate your being with us.

Ms. EKSTRAND. Thank you.

Mr. SMITH. Our next witness is Chris Sale, Deputy Commissioner of the Immigration and Naturalization Service.

Ms. Sale, welcome. Please come to the witness table.

Without objection, your prepared statement will be made a part of the record, and you are recognized for 5 minutes to summarize your testimony if you would.

STATEMENT OF CHRIS SALE, DEPUTY COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Ms. SALE. Good morning, sir, and thank you very much.

It is indeed a pleasure for me to meet with you so soon with the new subcommittee under your leadership. Your attention to the management issues in the INS exhibited through this hearing shows a strong interest in our agency and in its ability to carry out its mission, which is of increasing importance, and thank you.

I will just submit prepared testimony for the record, but I do have some abbreviated remarks. I would like to take a little bit of time to explain the broad plan of action that we are taking to improve INS's ability to serve the public. As you know, immigration issues have reached the forefront of State and national interest, and immigration enforcement has been given a high priority.

Mr. Chairman, during 1994 the men and women of the INS conducted 510 million inspections at our country's land, air, and seaports of entry.

During 1994 the men and women of INS completed action on 4 million applications for immigration benefits. Included in that number were almost 500,000 naturalization applications. That was, in fact, an 18-percent increase over the previous year. Receipts to date this year indicate that in the first quarter we are seeing a rise in naturalization applications of almost 51 percent over the first quarter of last year. We are indeed facing a significant challenge in this particular activity.

During 1994, Mr. Chairman, the men and women of INS completed action on 54,000 asylum cases. That was almost double the number of the year before. This year completions in the first quarter are 37 percent ahead of where they were last year, thanks to the good graces of the Congress, which supported our reinvention and expansion of the asylum program.

During 1994, the men and women of INS conducted 1,100,000 apprehensions, 61,000 of those in the interior and the remainder under the Border Patrol's rigorous border management activity.

During 1994, the men and women of INS completed 46,000 criminal investigations and, in addition to that, 6,000 workplace sanctions cases.

During 1994, the men and women of INS took custody of 81,000 aliens. Some of those voluntarily returned to their countries once they had been detained, but, more importantly, we also completed the removal of persons in the number of 44,000 cases under more onerous proceedings, 5,000 of them subject to exclusion proceed-

ings, 39,000 of them subject to deportation proceedings, 22,000 of those criminal aliens.

We have, as you can see, an extraordinary record. INS has 19,000 employees. They are tasked with administering a complex law under extraordinary odds. I salute those employees. There have been times that, due to a lack of strong public consensus on the issue of immigration, those efforts have been particularly difficult.

In these last 2 years we have seen a significant development of consensus around a need to enforce the immigration laws. This Congress approved significant enhancements in both 1994 and 1995. We are on schedule with the 1995 enhancements and have a part 3 on what is a multiyear agenda proposed this week under the President's 1996 initiatives, the next phase of our pursuit of enforcement of the immigration law.

The President's 1996 budget, as you already know, includes an aggressive and comprehensive proposal to improve our control over immigration. It does propose to increase the INS budget to $2.6 billion and to improve both border and interior enforcement as well as focusing on the deportation and removal of criminal aliens. While taking steps to deter illegal immigration, the budget also proposes to reduce the burden of illegal immigration.

I am going to ask your indulgence, Mr. Chairman. I think there are some things that I really would like to put on the record, if you will grant me a few more minutes.

To carry out the programs and initiatives with which we have been charged, INS is making very effective use of new resources. We are targeting those resources, and we are engaged in fundamentally revisiting the way that we do work with the resources that are allocated.

Past management reviews have been critical of INS for having a structure that neither provided clear direction nor required accountability. This, sir, is the strategic plan that was published just this fall that the GAO has already referred to [indicating document]. I trust that you have received copies of it in your immediate office. The plan was initiated while I was actually still Acting Commissioner, when we convened meetings of INS field managers as well as stakeholders—members of congressional staffs, universities, constituent groups who are interested in the issue—and then, having identified major issues where we needed to improve our activity, tasked those out for development in small groups.

The directions and the goals and the visions in the plan are not just words, they are a framework for action already in motion. For instance, the plans call on us to facilitate compliance with immigration laws. Last year we revised the asylum system from a bottom-up approach. We are now implementing new regulations with enhanced resources and have seen, as I said, in excess of a 30-percent increase in our ability to meet asylum production standards.

We task ourselves to deter unlawful migration through concentrated enforcement activities. We have demonstrated that it is possible to establish control at our borders. The El Paso and San Diego operations in particular are highlights of that. We have slowed the extraordinary arrival of persons without documents at Kennedy Airport by 50 percent from where we were 2 years ago.

We have stemmed the smuggling of aliens like cattle in cargo ships from what we were facing this time 2 years ago. We have signed or reached agreements with five States with major illegal alien populations for an institutional hearing program, and we are on schedule with the implementation of the moneys for 1995 for those programs.

We responded strongly and materially to Haitian and Cuban mass migrations this last summer and fall and did so within the resources that were available to the Service. In each of these instances we targeted the causes, not just the symptoms, of the migrant behavior and focused our skilled resources in those areas where we thought we would have the highest return.

We are committed to accurately collecting and communicating immigration information by placing a new emphasis on INS's role as a repository of the Nation's record on immigrants, visitors, and illegal entrants.

Last year after months of solid effort, we successfully completed and awarded two major ADP service contracts with a total capacity of over $500 million during the next 5 years. This has aggressively positioned us to enter into the work directed under the crime bill in the 1995 appropriations and which we hope you will support in the 1996 process to move an immigration information system forward.

We have concentrated resources where the need exists for us to best use them, again, targeting El Paso, targeting San Diego, targeting the institutional hearing programs. We have committed to inventing ways to do our work better.

The GAO staff just referred to our service centers where we have shown not only the capacity to build and install large computer systems but a 45-percent productivity return in the work associated with adjudicating applications for information services.

We have seen in San Diego that the software that we are installing on the border has reduced the time it takes for a Border Patrol officer to process an alien from 3.8 hours per case to 30 minutes. This is materially making the manpower available on the line larger with the same size staff.

We have committed to build partnerships with other government agencies in doing our work. Two years ago the Deputy Commissioner of Customs and I shook hands and agreed to change historic problems between our agencies. We now have made significant progress in that agreement and are better serving the public in our ports of entry.

We have made a commitment to improve professionalism and implement high standards of conduct. This fall the Attorney General signed regulations enabling INS to implement arrest authority by the end of the year from now 12,000 agents who have received new or expanded training in standards on such things as use of lethal force, nonlethal force, firearms, a variety of these activities that are absolutely imperative to professional law enforcement.

We are measuring the effect of all of these activities with an aggressive research and evaluation program so that as we initiate new activities we know not just what kind of product it generates but the outcomes that it brings to the objectives that we plan.

We have, as you know, reorganized the agency with congressional approval and believe that we have put management oversight in a very strong line authority, enabling us to facilitate service delivery and oversight. That reorganization now puts career INS officer over sectors and districts, and one of the agendas that those regional directors have is, in fact, coalescing and managing the relationships of all of our enforcement activities, not just criminal investigators and Border Patrol but how the detention system services them both.

Mr. SMITH. Ms. Sale, I am happy to indulge your request for additional time since you are the only witness from the INS, but I do want some reassurance that you are not going through all 22 pages of your prepared testimony.

Ms. SALE. I am not.

Mr. SMITH. OK.

Ms. SALE. Thank you very much.

The principal focus of concern is with our administrative structure to support all of our mission objectives. First with regard to automation, I have already made reference to the procedures that are in place to enable us to move aggressively with major initiatives that make the way that we do our work better. We will, in fact, deliver information systems and technology. We have been delivering them. This fall all eight asylum offices have new systems in place. This week we are in Miami installing the systems for enforcement purposes.

I am going to skip some pages.

Regarding financial management, we have now agreed with the Department of Justice to implement a new financial management system. The INS works with a 16-year-old accounting system, Mr. Chairman. We have struggled to make it do. It doesn't do.

In light of both the challenges that our financial structure imposes on it and the growth that we anticipate, the Department of Justice is, along with Treasury, joining us in a multiagency strategy to implement a new accounting system that will materially assist us in doing the work we need to do. We have, in fact, implemented debt collection systems that last May resulted in collections of $11 million. That is a significant increase above where we were in the year of 1991 and 1992. This is a result of automated systems that enable us to know where we are and what we can do.

Over the next several years INS will hire several thousand new employees. We have, in fact, engaged the Office of Personnel Management and have hired essentially through contractual interagency agreements their personnel to help us process clearances for these people, to help us through the recruitment and training for these people. Our commitment, Mr. Chairman, is that we will not mitigate or in any way reduce our standards for quality or clearances of these personnel before any of them is put to work in any of our principal capacities.

Mr. SMITH. Ms. Sale, we may or may not be having a Journal vote in 15 minutes, so I would like to proceed with the questions if we could.

Ms. SALE. Thank you very much for your indulgence, Mr. Chairman.

[The prepared statement of Ms. Sale follows:]

PREPARED STATEMENT OF CHRIS SALE, DEPUTY COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Thank you for inviting me here today to discuss management issues concerning the Immigration and Naturalization Service (INS). It is a pleasure to meet with the new Subcommittee under your chairmanship. We welcome the opportunity to discuss the INS' capability to carry out a mission of increasing public importance.

Over the last two years, INS' has been adding significant resources in order to *build* confidence in our Nations ability to enforce its immigration laws. The INS takes that responsibility very seriously. Years of inattention take time to correct. There is no quick fix. But, we are making visible, substantial progress that I would like to discuss with you today.

Earlier this week, the President submitted his 1996 Budget to Congress. This budget is the most aggressive and comprehensive proposal to improve our control over immigration that has ever been submitted. The 1996 budget request for the INS along with four other Executive Branch agencies will boost immigration funding by $1 billion—a 93 percent increase since 1993. It increases the INS budget to $2.6 billion—a 71 percent increase since FY 1993. The budget will accelerate the Administration's initiative to further strengthen border control, expand worksite enforcement and employment authorization verification, and triple the number of deportable aliens removed from the United States. While taking these steps to deter illegal immigration, it also will reduce the burden of illegal immigration on States by proposing a total of $550 million to help cover State costs associated with incarcerating criminal illegal aliens, providing emergency medical care to undocumented immigrant and grants to school districts in areas where there are large numbers of recent arrivals. This is a $330 million increase over 1995.

Clearly with these major enhancements and given INS' new role in coordinating with other affected agencies, we need an Immigration and Naturalization Service that is well organized and managed, professional, and equipped to handle the policies, programs, and initiatives with which it has been charged. The President's and the Attorney General's initiatives for the current fiscal year have prompted fundamental changes within the INS and the way it does its work. I would like to outline the management improvements we have taken and others which are currently underway.

In the past, there have been management reviews in which INS was criticized for having a structure which neither provided clear direction to its field components nor required accountability for how responsibilities were discharged and resources utilized. It was described as lacking a vision for where it was going, a strategic plan, or management systems for implementing strategic directions within the agency.

There is a new INS, an INS that has a vision and has the structure to execute that vision.

INS REORGANIZATION

One of Commissioner Doris Meissner's first tasks was to create an organizational structure at INS that would provide direction, require accountability and yet be responsive to field needs and initiatives. The INS reorganization was based on intensive discussions of a wide variety of options with INS personnel as well as management experts and external stakeholders. It was intended to reduce the span of control, and as a result, improve supervision, program integration, and increase communication throughout INS. It also established mechanisms to bolster INS' policy and planning capabilities and communication and coordination with Congress, outside groups, and the public. The reorganization greatly improves the way INS does business and, in doing so, should reduce the frustration both INS employees and customers have felt in the past.

As a part of the reorganization, we streamlined regional operations and have organized administrative support functions to facilitate creative approaches in the future. The reorganization clearly delineates between line authority and program development. We restored Regional Directors responsible for directing field operations under a new Executive Associate Commissioner for Field Operations in Headquarters. This reestablishes line authority at the operational level, enabling program managers to focus on national procedures, strategies and quality assurance.

In addition to meeting the National Performance Review (NPR) charge to "reinvent the Immigration and Naturalization Service's organization and management," the reorganization cut red tape by creating a straightforward organizational structure directed at service delivery. It permits Headquarters to "steer more and row less." It decentralizes decision-making authority and delegates authority and responsibility closer to where the work is performed.

Furthering the tenets of NOR, the reorganization has also laid the groundwork for re-engineering processes which were ineffective or outmoded such as policy dissemination or records and information management. Finally, through the reorganization we have established a capability and commitment to plan for the future, set customer service standards, and create quantitative performance measures to enable the Service to evaluate its programs and service delivery.

Implementation of the reorganization began last July and was completed at the beginning of this fiscal year. We have filled all new or vacant jobs created under the reorganization, focusing on the appointment of career INS managers who have demonstrated their ability to manage effectively.

Strategic Planning

While I was Acting Commissioner, I instituted an extensive strategic planning effort to define the agency over the long term, to establish a framework for decision making, and to set goals and objectives to ensure that, as an agency, we are all moving in the same direction. This approach was strongly affirmed by Commissioner Meissner, who announced that development of a strategic plan was one of her first management priorities.

Our plan was based on issues developed at INS first Strategic Planning Conference held in June 1993, which was attended by all top INS Headquarters and field managers. We also solicited external views through a Stakeholders Conference attended by seventy-five participants from Congressional staffs, universities, law firms, other Federal agencies, and immigration interest groups. The issues raised by the participants at this Conference provided valuable insights and validated the issues identified at the INS Strategic Planning Conference.

The INS strategic plan has a significant investment from within the agency, which is critical to its success. A Strategic Planning Working Group, comprised of a cross section of INS program representatives and field managers, was formed to consolidate the issues raised at the Planning and Stakeholders Conferences and guide development of the strategic plan. The results of this work were then circulated throughout INS for review and comment. Based on this input, recommendations for future strategic directions were ratified by our Executive Staff. The final plan was published and disseminated this winter.

I would like to share some of the highlights of our strategic plan. Integral to the plan is the Commissioner's vision for INS over the next several years, which includes:

Making INS a model of professionalism through high standards of conduct, clear policy objectives, proper training, and modern technology;

Rethinking the way we approach our tasks and missions, so that we meet the organizational challenges of a future where effectively administering the Nation's immigration system has become a key national priority; and

Viewing the service and enforcement components within INS as mutually supportive parts of effective regulation of immigration processes where we remember that behind every case is a human being and that ultimately our customer is also the American public and the good of the Nation.

Eight major strategic directions emerged from the planning process which constitute the key principles guiding decision and policy making within INS. They are:

Deter Unlawful Migration. INS will deter unlawful migration through concentrated enforcement activities, establishing disincentives in the workplace, enhancing the security of INS documents, and coordinating interagency actions to deter immigration-related fraud.

Facilitate Compliance with Immigration Laws. INS will simplify and streamline its processes to make it easier for applicants for immigration and nationality benefits, as well as employers and others, to comply with immigration laws.

Concentrate Resources. INS will concentrate resources in areas where the workload, or vulnerability to the integrity of our Nation's immigration policies, is greatest.

Reinvent INS Work Processes. INS will reinvent its work processes, using modern technology to increase workforce productivity and to improve service to the public.

Promote Professionalism. INS will foster professionalism by insisting upon high standards of conduct that ensure accountability to the public, proper training, modern technology, and hiring and promotion practices that result in a workforce that reflects the diversity of the American workforce.

Build Partnerships to Manage the Immigration System. INS initiatives will be based on integrated program activities, and INS will reach out to develop productive alliances with other organizations and agencies at other levels of government, as

well as in the community at large, to strive for seamless processes and coordinated approaches to manage the Nation's immigration system.

Carefully Collect and Communicate Immigration Information. INS will place new emphasis and priority upon its role as repository of the Nation's records on immigrants, visitors, and illegal entrants.

Measure Effectiveness. INS will improve the effectiveness of its programs by focusing on results, including quality of service and public satisfaction.

The Strategic Plan is a living and breathing document. Its guiding principles and goals have already infused our budget development and program planning. They will help us to rethink how we do things, to accomplish our mission in new ways, and to improve and innovate. It will provide a guide for decision and policy making for the next several years.

The position of Executive Associate Commissioner for Policy and Planning was established to institutionalize this planning process and to ensure that the concepts and strategies in the strategic plan are translated into action. As a first step, we developed agencywide priorities for 1995.

The Priorities Management System developed this year provides an ongoing mechanism to keep the agency on track in implementing long-term goals and objectives. Lead officials from the Executive Staff oversee Headquarters and field progress in each cross-program priority and report to me on a quarterly basis. This accomplishes two goals—accountability for actions and cross-program coordination and communication, both of which were deficiencies reported in previous management reviews of INS.

The pattern followed in developing the Strategic Plan and the FY 95 Priorities exemplifies the commitment to involve field managers in planning as well as execution. Throughout this process there had been continuous consultation with the field to ensure that the perspective of the local district directors and sector chiefs were included. Regional conferences with the Commissioner and Executive Staff were held this summer followed by a national conference this fall. The four executive associate commissioners met with the field managers in each region to engage them in developing action plans for the FY 95 Priorities. We are convinced that such field manager participation is essential to successful innovation and the most effective use of our resources.

Management Issues

FINANCIAL MANAGEMENT

Over the past several years both internal and external reviews of INS have criticized financial management procedures. INS has reached an agreement with the Department of Justice to implement an INS financial management system that meets prescribed standards. We have put a development oversight team in place to acquire a state of the art software package to replace INS' 16-year-old accounting system.

In the past year we have made substantial improvements to our financial systems. Last May, we implemented a debt collection system following several years of intermittent development. Since implementation we have collected $11.5 million. In addition, the system has allowed us to identify $3.8 million dollars in interest, penalties, and handling charges.

We have toughened our policy for dealing with bonding companies by refusing to do business with firms that do not pay outstanding debts. Currently the INS has litigation pending against three companies totaling $5.1 million. The Bond Management Information System, currently under development, is scheduled for implementation later this fiscal year.

This past year we have also improved the quarterly financial reviews provided to senior management. Quarterly financial reports are prepared for the Service as a whole on a nationwide basis for each program and field office. Comparison of budget allocations, obligations to date, and projected spending, as well as projected fee revenues, provide the opportunity to surface issues early in the year and detect and address potential problems.

AUTOMATION INFRASTRUCTURE

INS has begun to invest in technologies as a resource multiplying strategy to improve safety, effectiveness, and productivity of our operations and support personnel. Accomplishments over the past year and a half have laid the foundation for the rapid deployment of an information systems infrastructure that will integrate data systems and improve access to INS corporate information, streamline internal oper-

ations, reduce paperwork flow, and result in the redeployment of operational resources to the border as well as assisting in improving customer services.

We are re-engineering the case processing and management activities of our Enforcement Program. We have deployed the first phase of our planned enforcement case tracking system in the San Diego and McAllen Border Patrol Sectors. Use of the system since July has shown a reduction in processing time for an administrative case from 2.8 hours to 30 minutes. Agent time saved through this system can be spent at the border apprehending illegal entrants.

Since October 1994, we have been running a pilot identification system at five locations in the San Diego Sector. Over 80,000 bookings through the system have been made with over 33 percent of the illegal entrants identified as repeat offenders.

We have also developed and deployed the border intrusion detection and officer dispatch/tracking system (CADRE/ICAD) in the Swanton, Vermont; Houlton, Maine; and San Diego Sectors. The system will result in more effective use of the INS electronic sensor devices by permitting analysis of the sensor hits and more effective planning of sensor deployment.

We recently completed a successful test of a video teleconferencing link-up between the Executive Office for Immigration Review's Immigration Court in Chicago and the federal Bureau of Prisons facility in Lexington, Kentucky. This pilot program reduces the costs for transporting aliens from the institution to court and dramatically reduces the risk of escapes. It is expected to improve efficiency not only through travel cost savings, but also through increased productivity of both judges and attorneys.

We are also continuing plans for developing technology for other operational uses, including automated inspection, electronic filing for benefits, and "Look Out" intelligence. These initiatives are being planned in cooperation with other state or Federal agencies.

BORDER MANAGEMENT COORDINATION

The management of border functions has long been an issue. In June 1993, the General Accounting Office (GAO) issued a report on the Customs Service and INS, which concluded that dual management has resulted in rivalry, coordination problems and inefficiency. The GAO recommended that the Office of Management and Budget work with the Departments of Justice and Treasury to develop a plan for ending dual management of border inspections.

Since 1993, INS and Customs have been working jointly to improve operational procedures and develop new and innovative projects for both facilitation and enforcement at land border ports of entry. Five on-going initiatives are:

First, we have worked jointly to implement cooperative shift scheduling to maximize the number of available inspectors at peak periods.

Second, we are developing integrated special operations for the most effective enforcement.

Third, we are preparing a unified program of continuing training and education for cross-designated inspectors which enhances both enforcement and facilitation.

Fourth, a critical element on cross-designation is being incorporated into the performance appraisals of cross-trained inspectors.

Finally, we have jointly established formal quality improvement committees for the development and monitoring of local cooperative initiatives.

These initiatives are being tested in six border ports in Texas, Arizona, California, and Michigan. We are combining our specific expertise to secure the most effective administration at the land border ports of entry, just as we have previously done at the airports.

INS and the Department of State are working together to streamline the inspections process utilizing electronic data transfers, including INS petition information and visa information from consulates. This project would eliminate inefficient paper processes while improving customer service and national security.

PERSONNEL RECRUITMENT AND PROFESSIONALISM

Over the next two years, INS will hire several thousand new employees. As a result, we have developed new methods for expediting recruitment and hiring of these employees, while maintaining strict standards. We have increased our targeted efforts to attract well-qualified minority applicants.

The Office of Personnel Management has cooperated with us on a series of projects designed to increase professionalism in the INS workforce. Several initiatives relate to improved assessment instruments to measure competencies which are critical for effective on the job performance. The assessments will contribute to the

fairness of promotional decisions and provide individual employees with feedback about their strengths and weaknesses.

We are also streamlining the hiring process through a Computerized Adaptive Testing (CAT) system developed for INS to examine applicants for entry-level officer positions. In late Spring, the system will be pilot tested for the Border Patrol Agent occupation. This system provides a single test for six occupations, gives an effective measurement of the applicant's potential, allows flexibility in test scheduling, and provides immediate automated scoring.

We have also developed and validated a suitability assessment instrument to screen entry-level Border Patrol candidates. This tool identifies applicants who are likely to cause disciplinary problems on the job. Implementation is planned for late Spring.

The Office of Personnel Management recently completed the development of a *Preparation Manual for the U.S. Border Patrol Language-Learning Ability Test.* This manual will prepare applicants to take the Artificial Language Test, which is part of a series of examinations required as part of the Border Patrol Agent examination process. A validation study demonstrated that this test is an extremely effective predictor of success in learning Spanish, which is an integral part of the Border Patrol Academy curriculum. The test preparation manual will provide applicants for Border Patrol Agent positions with a realistic view of the test, thereby enhancing their ability to successfully complete required training for Border Patrol positions.

EQUAL EMPLOYMENT OPPORTUNITY

Commitment to equal employment opportunity must begin at the top, and all senior managers, including the Commissioner and myself, have received EEO training which includes laws and principles, alternative staffing procedures, manager accountability and cultural diversity.

Last month we implemented a new Affirmative Employment Program Plan (AEP) covering fiscal years 1995 through 1999. The plan's goal is to diversify the INS workforce by addressing systemic problems and barriers to the employment and advancement of minorities, women, and disabled persons. It establishes objectives for achieving diversity by implementing specific action items related to recruitment, training, promotion and career development, manager accountability and employee retention. Full-time, permanent EEO specialist positions have been placed in selected field locations throughout INS to ensure consistent implementation of the AEP.

Recently, INS conducted an extensive targeted recruitment campaign for entry level Border Patrol Agent positions, covering 24 cities in Mississippi, Louisiana, Arizona, New Mexico, Oklahoma, and Texas. The locations were selected based upon minority representation (African-American, Hispanic, Asian/Pacific Islander, and Native American) and geographic locations similar to Border Patrol duty stations. This recruitment effort yielded over 1,100 minority candidates to take the Border Patrol exam, an increase of 140 percent over the number of minorities applying for Border Patrol Agent positions in fiscal year 1994. Since we anticipate an expanded number of minority candidates into the INS training academy, we have placed a full-time EEO Program Manager there to ensure a support base for these candidates.

The AEP requires the development of career paths and training programs which clearly define requirements for promotion into the supervisory, middle management, and senior levels of the Service. Formal training programs are being developed to target candidate development leading to senior management and SES positions. Mentoring and training programs will be developed to ensure that employees within the Service have a support base for work-related issues.

A coordinated, systematic approach to providing EEO and related training to employees, managers, and supervisors within INS will be developed and implemented to ensure fair work environments. This includes a requirement for new managers and supervisors to receive basic EEO training within 6 months of initial appointment and updated EEO training every 2 years. Additionally, to ensure manager accountability for EEO, each senior INS manager and every supervisor has a critical EEO element in his or her performance work plan.

SECURITY

Part of building a professional workforce is ensuring that our employees have the character worthy of the public trust. We have improved our pre-employment security screening, and background investigations are now completed or initiated prior to entering on duty. Every key management selection has been cleared for any pending concerns with the Office of Internal Audit, the Office of Security, and the Office

of EEO to ensure there are no ongoing investigations or unresolved security issues. We have also initiated a comprehensive personnel reinvestigation program covering an average of 2,300 employees annually.

TRAINING

In both basic and journeyman officer training, our goal is to train officers to become fully knowledgeable in the law, with language skills, cultural sensitivity, self-confidence, and prudence to execute their responsibilities.

This year we will expand the number of Border Patrol Agent basic trainee classes to produce 700 graduates to meet the President's border control initiative. There will be no compromise in the screening process for their selection nor the thoroughness of their preparation. Simultaneously, we have already eliminated the backlog in training for Inspectors and Detention Enforcement Officers with the remaining officers scheduled for this year.

INTERNAL AUDIT CAPABILITY

INS created the Office of Internal Audit in 1992 to investigate alleged misconduct and mismanagement by Service employees, conduct reviews and evaluations of Service operations and programs, follow up on corrective actions in response to external and internal audits, and identify and analyze trends or deficiencies that may require restructuring.

A new automated internal investigations case management system will facilitate individual case processing and analysis of allegations to identify areas requiring systemic corrective action. It will also provide a mechanism to identify areas requiring follow-up to ensure adequate corrective action has been taken in individual cases. The Office of Internal Audit is evaluating all previous criminal investigations in which INS employees had successfully compromised Service systems for issuing documents, providing benefits, or controlling assets to identify the system weaknesses that allowed the fraud to occur and the extent to which effective corrective actions have been taken. The Office of Internal Audit has already used its preliminary findings as the basis for a bulletin to all employees describing specific controls that are critical to the prevention of fraud in day-to-day operations.

LABOR MANAGEMENT PARTNERSHIP

Several important steps have been taken to improve the relationship between INS management and the labor organizations representing its employees. A new collective bargaining agreement between INS and the National Border Patrol Council was signed this past Monday.

In addition, INS and both AFGE Councils representing our employees have agreed to establish a formal labor-management partnership council that we believe will foster a high level of cooperation between labor and management that has not always existed in the past. Both actions signal important progress towards improving the climate in which INS employees at all levels function and will contribute to employee effectiveness.

CONCLUSION

INS is no longer a poorly funded, understaffed, relatively unknown agency with an uncertain mission. We are now a better funded, well-known agency at the forefront of national policy in a broad arena of issues, some of which have not previously been linked to immigration. We recognize our leadership role in the immigration arena. We are taking bold steps to ensure that we are a well-managed agency able to provide the leadership required to curb illegal immigration while maintaining our Nation's proud heritage of legal immigration. We have a management structure in place to ensure effective use of the significant new resources allocated in 1995 and proposed for 1996.

I hope that this summary of some of the many management initiatives we are undertaking illustrates our dedication to being a well-managed agency worthy of the public trust.

We want to ensure that INS has a work force which is dedicated and professional. We are building integrated processes to administer the immigration laws effectively and fairly in a world beset by economic and human rights deprivations. Finally, through these efforts, we are increasingly augmenting our capability to assume the leadership role necessary to recommend and implement policies that meet the needs of the Nations.

Mr. SMITH. And thank you again for being here. You have appeared before the subcommittee many times in past years, and of course we welcome you back today.

Ms. SALE. Thank you.

Mr. SMITH. It seems to me that the INS has a tough job. You have got 19,000 employees, you have got 65 offices around the world, I think 62 in the United States; you often operate with something less than a clear congressional mandate, and I realize that makes your job tough.

The Office of Management and Budget still says, however, that the budget process within INS is, "high risk." What I would like to do is ask a series of questions and, I hope, get a brief response from you back, and many of my questions come from two newspaper article series that you are probably familiar with, all of which have appeared in the last few weeks from the New York Times and from Copley News Service as well.

The first quick question is: It has been pointed out that literally for lack of maybe organization or management of or staff or all three, the INS has failed to collect a number of fees, for instance, from airlines and from cruise ships that might total as much as $23 million a year. What is the INS doing to correct that problem?

Ms. SALE. The cruise lines collections that the GAO has referred to in the past are cruise line collections that they would recommend we ask Congress to approve in statute that we collect. We do not have authority to make those collections today. It was, in fact, one of the things we requested last year and unfortunately didn't get authorized.

We do in fact today collect in excess of $240 million of user fee revenues through the airlines, and we do in fact collect all of the exams fee account revenues ourselves and do so with a very, very good and solid record in terms of getting the money in the bank and seeing the benefits.

Mr. SMITH. You are now collecting, you are saying, all the fees that you are entitled to collect?

Ms. SALE. We are collecting the fees that are currently authorized to be collected. There are lots of ideas about additional fees we could collect. We have just in this year's budget proposed this border toll that would enable us to self-fund—create a self-funding mechanism for land border accounts.

Mr. SMITH. I am not talking about future fees, but as far as current fees that you are authorized to collect, you now feel that you are collecting all those fees?

Ms. SALE. For the most part I do, yes, sir.

Mr. SMITH. What do you mean by "for the most part"?

Ms. SALE. Because there may be some interpretation of law that I am not aware of, but we have aggressively reviewed and worked with GAO in the past to implement their recommendations on additional fees and have been collecting and instituting those.

Mr. SMITH. OK.

Let me go to the next subject, and that is whether or not, when it comes to management, employees who clearly either abuse their office or engage in activities that are conflict of interest and so forth are receiving sanctions. I have got a series of people I could ask you about. Let me just ask you about one. This is an individual

who is a high ranking Border Patrol official—his name is public, but I am not going to mention it—who is engaged in, "highly unprofessional conduct with female employees." The INS continued to promote him. Are you familiar with that case?

Ms. SALE. You are reading, I presume, from the New York Times article.

Mr. SMITH. That is correct.

Ms. SALE. I am familiar with the case.

Mr. SMITH. OK. Why did he continue to receive promotion if in fact he had engaged in these highly unprofessional activities?

Ms. SALE. The unprofessional activities referred to in the New York Times article date back to the mid-1980's. During that period of time, INS was in fact not timely performing EEO investigations and it was not also taking into account that there were pending investigations for officers while their careers progressed, and so the right hand in fact was not necessarily working with the left hand. But during the pendency of an investigation there was a presumption of innocence.

We have reversed both of those instances in today's INS. We are current with discrimination complaint receipts. We have reduced the time it takes to process a discrimination complaint from almost 2,000 days to 400 days. That still sounds like a long time but includes EEOC and the Department and everyone else.

Mr. SMITH. Has anyone who has been found to have engaged in unprofessional conduct been promoted or received substantial promotions in any way?

Ms. SALE. In the history of INS, sir?

Mr. SMITH. No, no, just in the last, let's say, 2 or 3 years, if you say that you have improved the system.

Ms. SALE. No one within my immediate knowledge. I cannot vouch for what is happening at a GS–7 or –9 level. We have systems in place to preclude that, but I don't have personal knowledge of every promotion that occurs in INS, sir.

Mr. SMITH. You have no knowledge of anyone who has been found guilty of unprofessional conduct receiving promotions or being given salary increases?

Ms. SALE. No, sir.

Mr. SMITH. OK.

Let me go quickly to another question, and this concerns something that has actually been on a television network news recently, and that is the subject of criminal aliens who are oftentimes deported—I think you mentioned a while ago the figure 22,000 last year—but also oftentimes are not found, disappear forever into our society, where I think the figure is 77 percent commit additional crimes, something like that. Do you know how many criminal aliens there are? Do you know the total number of individuals who are illegal aliens who have been convicted of serious crimes?

Ms. SALE. We can make an extrapolation based on what we know about who is in detention in State or Federal facilities.

Mr. SMITH. Why an extrapolation? Why not an exact figure?

Ms. SALE. Because we have personally reviewed State facilities, with the help of the Urban Institute last year, incarcerated aliens in the seven major States. We estimate that that represents 80 percent of the foreign-born population in the United States.

Mr. SMITH. Again, why don't you know specifically how many individuals? Do you know, for example, how many individuals are deportable who are out there somewhere in America today that should be deported because they are criminal aliens?

Ms. SALE. An investigation has to be conducted in each case before a determination of deportability can be made, Mr. Chairman. I mean that is a number that——

Mr. SMITH. Let's assume that you have completed the investigation; you know these individuals should be deported.

Ms. SALE. Those persons for whom we have completed an investigation and have a final order of deportation are, in almost every instance, in our custody and are removed.

Mr. SMITH. I am going to yield to my friend from California. Then I will follow up with my questions in a minute after we finish our round.

Mr. BECERRA. And, Mr. Chairman, I would like to see the chairman pursue the questioning, but I hope we make the distinction—and perhaps this is one of the reasons why Deputy Commissioner Sale may have a problem answering the question— when we say a criminal alien, a deportable alien, that includes not only those who are here under undocumented status, who don't have the right to be here, but it includes people who are lawful permanent residents who have committed crimes and therefore are now deportable.

So we have to be careful, because it is difficult to distinguish between someone who is deportable or is a criminal and is also an immigrant within that group, people who are undocumented versus legally here, and also the question becomes if—a foreign born could include someone who is actually a U.S. citizen and was born outside this country. So there are different shades, and that is what makes it so difficult.

Mr. SMITH. Right, there is a distinction. I thought I had made it clear I was talking about illegal aliens, but if not, I will make it clear in the next series of questions. I thank my friend for pointing that out.

We will go to the gentleman from Texas, Mr. Bryant, for 5 minutes.

Mr. BRYANT of Texas. Thank you.

Ms. Sale, first I apologize for the fact that our system is such that we don't do much patting on the back for good jobs, we just call everybody here and give them a hard time and send them on their way, and you all——

Ms. SALE. That is about the way I work too, Mr. Bryant. But I thank you for your courtesy.

Mr. BRYANT of Texas. You all do a lot of good things, and I don't want to ignore those. We just have so little time that there is not much time to go into that.

Ms. SALE. Thank you, sir.

Mr. BRYANT of Texas. I want to ask you about the problems that we have been told about.

First, you heard me ask questions of the GAO about inaccurate estimate of revenue for the 1994 fiscal year. To restate it, apparently you all dramatically underestimated what you were going to get, and then, hearing that you were right, cut the agency's oper-

ations back substantially, somebody estimated about 20 percent, and then all of a sudden a big windfall came in of $64 million.

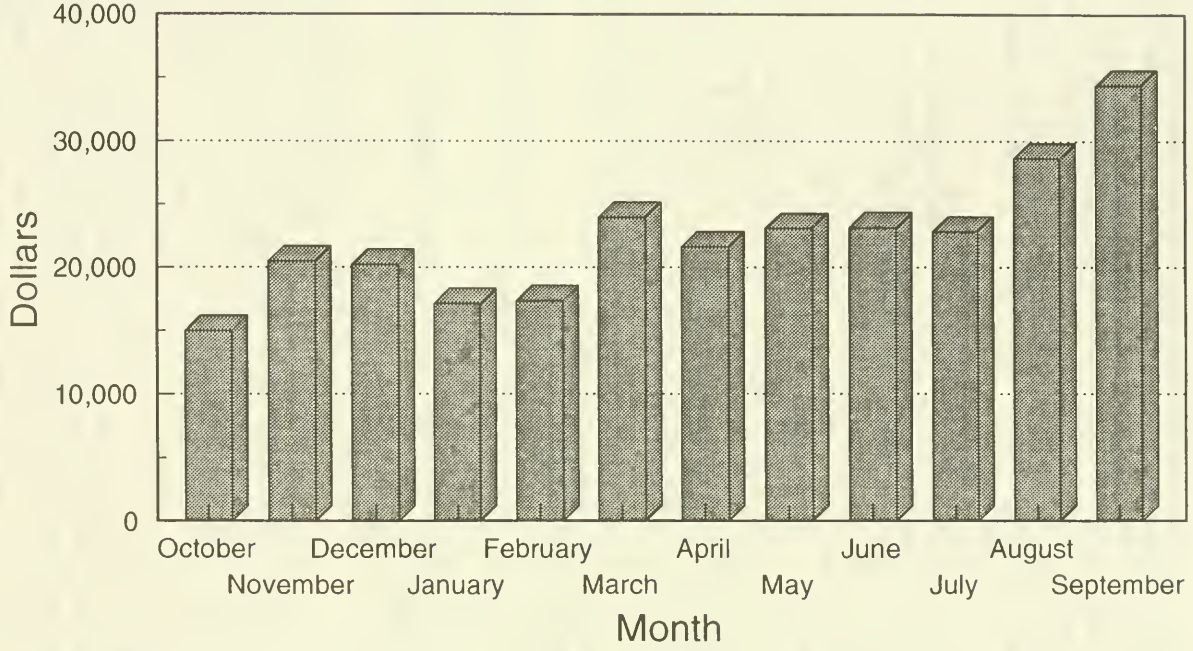
First of all, how did you underestimate so far?

Ms. SALE. If I may, the estimates for last year were made 2 years previously based on the calculation of the kind of work that we were doing then and what we expected in terms of growth. That estimate was high because we estimated on continued growth and didn't understand that there would be a decline in certain kinds of calculations. We have now brought demographers as well as our adjudications and budget staff to bear on this analysis, and the people that we have working with the Bureau of the Census are now also part of our estimating procedure. So the estimate that we started out for this year was that we would be at $305 million in terms of receipts.

When we started the year, we realized that in fact we were going to be somewhere closer to $250/$240 million and came and advised Congress, as it is our duty, that we needed to reduce our level of spending by some $47 million.

For the first 10 months of last year our actual receipts were between $21 million and $23 million per month, and I would be happy to submit for the record a chart that shows the receipts, and we ratcheted down in order to stay within what was our financial obligation, which was not to spend more money than came in.

APPLICATION DOLLAR RECEIPTS
FY 1994
(Dollars in Thousands)



Source: Financial and Accounting Control System (FACS)

Ms. SALE. In the last 2 months of the year receipts rose to $28 million relative to $21 or $23 million and $34 million in September. This is a one-time extraordinary growth predicated on persons wanting to get new green cards. It is the I–551 replacement program, Mr. Bryant, if you will allow me to use a term of art. We had no way of knowing, and we were right, in not expecting that level of receipts to come forward into October, November, and December of this year.

It was also very late in the fiscal year to come to Congress and ask for an extraordinary increase in our expenditure rates based on what we knew were 2 months' worth of aberrant receipts until we had a better handle on what we thought the annualized amount would be for this year.

We immediately, once we knew what our October—once we ended the year and took action to take the freeze away and made sure that we had sufficient money to carry forward. Because exams is a self-funding businesslike account, under government accounting standards we do in fact typically try to end the year with between $25 and $30 million in the bank. You need cash-flow into the next year. So this $63 million number is utterly out of context with prudent financial management practices. What was extra, if that is the way we want to look at it, was probably the equivalent of the change in these receipts over a 2-year basis and some adjustments in accounts at the end of the year.

Mr. BRYANT of Texas. The $25 or $30 million.

Ms. SALE. That is right. That is right. So we have taken a number out of context, put it in a newspaper, and made it look like something that it is not.

Mr. BRYANT of Texas. That has never happened to us before.

[Laughter.]

Ms. SALE. No, I'm sure it hasn't, sir.

We have now completed an analysis of what we think this year's receipts are, which are enhanced by a new provision that Congress put in place that went into effect in October and are hoping about the end of this month to be meeting with Appropriations staff to talk about ratcheting up our activities in the exams fee account timely to make a difference this spring and summer, sir.

Mr. BRYANT of Texas. Does it make sense for us to have agencies depending upon their collected receipts to operate? It is just a theoretical question. Why shouldn't we just say, you give us all the money, we will give you what you need to operate?

Ms. SALE. Well, that is a very good sort of philosophical question that people will dialog about probably for the next century. There is a very, very strong sentiment that when a particular class of persons enjoys a benefit from the Government they ought to pay for that benefit and that the rest of the taxpayers in the country shouldn't necessarily bear that benefit. We are doing that now with inspections at our airports, we are doing that with this exams program, Customs does that with certain of its programs, but whether or not it should be appropriated instead sometimes makes it very difficult to achieve the objective because, again, of the workload fluctuation.

Mr. BRYANT of Texas. Well, I don't want to trample on the red light there. My question was not, should they pay the fees, but

whether we should just give you a budget and you operate under this budget and any fees that come in go into the treasury.

Ms. SALE. From my very parochial perspective, until the fees were provided for this program there never was sufficient money to make the kinds of investments we have made to build service centers to put computer systems in place. That might be different in today's environment, but it certainly was not the case in the environment of the eighties.

Mr. BRYANT of Texas. I guess in case I don't get another round here, I want to make very clear to the administration, I think this border fee is a very bad idea and I intend to fight it very hard. It is, in my view, a penalty on people that do business along the border, and it is not in the interests of the country, and it is not fair. Maybe I will get to elaborate on that later.

Thank you.

Mr. SMITH. Let me add to my friend's remarks that I think a border fee is so controversial that it is not going to pass Congress. So I think the administration would be better off if they forgot about it. I think you can easily justify the increase in expenditures for the INS and many dollars saved for every dollar spent whether or not you have a border crossing fee.

Let's go to the gentleman from California, Mr. Gallegly, for 5 minutes.

Mr. GALLEGLY. Thank you very much, and welcome, Ms. Sale. It is always good to see you.

Ms. SALE. Good morning, Mr. Gallegly. It is good to see you as well.

Mr. GALLEGLY. Before I start my couple of questions, I would just like to echo the comments of our chairman and ranking member, Mr. Bryant, on the border crossing fee. Without going into any great detail, I would just like to go on record as saying I support the comments they have made.

The questions that I have for you, I think we could cover about 10 percent of them in 90 days if we stayed together 24 hours around the clock, but in view of the fact that we have 5 minutes, I will try to be brief, and I would hope you would try to make your answers brief for me.

Ms. SALE. I will do the best I can, sir.

Mr. GALLEGLY. You mentioned in your opening testimony the issue of processing asylees. This has been an issue we have talked about each year, and you mentioned this last year we processed approximately 37,000 cases, plus or minus. How many pending cases do we have right now? Is it in excess of 250,000?

Ms. SALE. Yes, sir, it is.

Mr. GALLEGLY. How many new cases did we have last year?

Ms. SALE. One hundred and forty thousand.

Mr. GALLEGLY. We had 140,000. We had about 230,000 from the previous——

Ms. SALE. We did 54,000 this year—last year. Excuse me. We did 54,000 last year.

Mr. GALLEGLY. OK. You did 54,000 during the year. You had a hundred and how many thousand new cases?

Ms. SALE. We had 140,000 new ones last year.

Mr. GALLEGLY. You had 140,000 new cases, and you had probably 250,000 left over from the previous year. Is that right? So my simple arithmetic means we had somewhere around 400,000, and we processed 50,000.

Ms. SALE. That is right.

Mr. GALLEGLY. OK. That is good news. I can wrap this up in a couple of minutes.

Mr. SMITH. Take your time.

Mr. GALLEGLY. The grass is growing faster than we can cut it. OK.

Recently in the Los Angeles Times there was an article about fake documents, and this has been another topic of great concern, and in this case we had an individual, a middle management level person, working in the 3-year adjudications, an adjudications clerk, a pretty important position within the organization. He is the one that approves cases for people to become legal residents.

This individual allegedly was running a business on the side called Buy Immigration Services. He had a little side business going, and in this side business he was providing aliens with documents that were legal documents, but he was providing them to them illegally, as part of his side business.

Mr. Rogers, the Immigration and Naturalization Service district director, has referred to this action as a conflict of interest. I would say it is a conflict of interest. Mr. Rogers went on to say that Mr.—well, I won't mention his name; it is on the public record—the alleged culprit here is out on bail and if he shows up for work he will be suspended.

With the tremendous concern that we have for document fraud, it is bad enough when we have guys making them in their van on the street corners but it is another thing to be working in the Service and the taxpayers paying for somebody to process these things. What kind of safeguards do we have?

Ms. SALE. I would say three things. The reason you and I both know about him is, he got caught. I would rather he had been caught on the first day, but certainly sooner is better than not.

We are in fact, as you know, Mr. Gallegly, immensely concerned about document fraud. You and I have had conversations on this issue in the past. We have a regulation to be published hopefully this coming month that will reduce the number of documents that INS distributes to people for employment purposes from 29 to 16. The administration has decided to propose statutory amendments that would reduce the documents aliens can use to two and that those would be INS issued documents.

This summer we will centralize the development of work documents in our four service centers, and we will by the fall be using expanded technology that will in fact provide extraordinary security measures to those documents, and the plan is that by this time next year we will have incrementally brought in more and more of those documents. Employees in the Service will not have—we won't suffer the risks that we suffer today with that system.

We also have established an internal audit office. We are, every time a case like this occurs, publishing what has occurred and sending every manager in the Service a notice to beware, to watch for these kinds of cases.

Mr. GALLEGLY. Well, you know I appreciate those comments. It said that the INS officials did not cooperate with the paper. In fact, it was only confirmed after the Los Angeles Times had forced the issue to make this public.

Ms. SALE. It is frequently the case that when an investigation is ongoing we prefer not to have it published in case there is a second person to be apprehended.

Mr. GALLEGLY. This wasn't during the course of an investigation, this was after the man had been arrested.

I have one other quick question, Mr. Chairman, and this has to do with the issue of sponsors that sign an affidavit, the I–134. Are you familiar with that form?

Ms. SALE. Yes, sir, I am.

Mr. GALLEGLY. I sent a letter to Ms. Meissner about 3 weeks ago asking what is happening to these folks. They sign a form like I cosign for my son's car loan or whatever, and if he doesn't make the payments they come after me. Also, there is a bond requirement from time to time. How many bonds have been forfeited? How many people have been gone back to and said, "Hey." In my office we have literally hundreds of cases where people have been here less than 2 or 3 weeks as legal residents and they are down getting SSI or a $4,000 hearing aid or whatever.

I guess that my concern is, does this affidavit mean that this person accepts only the responsibility to pay for the gas to drive the person to the welfare office?

Ms. SALE. The affidavit is filed in an alien's file, and the Social Security Administration does routinely call us and check for affidavits of support when they or other entities in HHS get requests for benefits from persons. The person probably first has to self-identify.

This is an issue of some concern in terms of our real meat in enforcing the affidavits, but there is a system in place, and, as you so clearly articulated, when we make a judgment call that a person looks like they might be at risk of violating their commitments in immigrating to the United States, we ask them to post a bond as well.

Mr. GALLEGLY. In the interests of time—I know my time has run out, Mr. Chairman—I have sent a letter to Ms. Meissner. Would you please track it for me and try to get me some specific answers regarding numbers and dollars, and I would like to bring it back to the committee.

Ms. SALE. I would be happy to do that. Thank you, sir.

Mr. GALLEGLY. Thank you, Mr. Chairman.

Mr. SMITH. I thank the gentleman from California.

Ms. Sale, as you know, we have a vote going on. We will need to stand in recess for 15 minutes, and then we will resume.

Ms. SALE. We will wait for you, sir. Thank you.

[Recess.]

Mr. SMITH. The subcommittee will come to order and we will resume our questions with Ms. Sale from the INS, and if the gentleman from California is ready we will go to him for 5 minutes for questions.

Mr. BECERRA. Thank you, Mr. Chairman, and may I say before I do begin that I want to join the chairman and other Members who have spoken on the issue of the border fee to say that I am

opposed, and adamantly opposed, to the fee for the reasons articulated by the chairman.

Ms. Sale, thank you, as always, for being here and for being gracious in trying to respond with as much information as you can on these very compelling questions.

Ms. SALE. Thank you, sir.

Mr. BECERRA. Let me also make sure that I do something that Ranking Member Bryant did as well and recognize what I believe has been tremendous progress in many areas within the Immigration and Naturalization Service's mandate, and that is of course to try to do something which I don't think anyone will ever get to do, and that is to try to manage and control and regulate our borders and everything that goes on in the interior of this country when it comes to immigration.

I think that clearly you have demonstrated, and please pass along to Commissioner Meissner and all the men and women of the INS, that some of us, and this person in particular, believe that there has been an effort on the part of the INS to improve the status of its immigration enforcement and review.

Ms. SALE. Thank you, sir.

Mr. BECERRA. Let me ask a few questions with regard to the issue of naturalization and some of the fees. You mentioned in your testimony that there has been a 51-percent increase over last year in naturalization applications.

Ms. SALE. The first quarter of this year over the first quarter of last year.

Mr. BECERRA. And I suspect that will be a continuing trend; whether it is 51 percent or not, there certainly will be an increase over the previous year's quarter.

Ms. SALE. We have seen an escalation in receipts for at least 6 or 8 months now.

Mr. BECERRA. And I know in Los Angeles, when I have spoken to the district director there, that clearly they are seeing just phenomenal numbers of people who come in.

Ms. SALE. Absolutely.

Mr. BECERRA. Given that each time that a person comes in to apply for naturalization they pay a fee of I believe $95, how much of the money that is being collected in fees in this new fiscal budget that the administration has submitted is going into naturalization?

Ms. SALE. In terms of our budget? We don't actually budget exclusively for naturalization as a separate account but, rather, budget for all the examinations activities in a single lump.

Mr. BECERRA. Do you have any idea how many new people will be hired or resources will be allocated to the naturalization component within INS given the dramatically increasing numbers of applications?

Ms. SALE. I referred earlier to a reprogramming that we hope to be able to deliver to the Appropriations Committee in a short period of weeks. That reprogramming will spend receipts from these penalty fees that we are collecting for 245(i) adjustments. Those penalty fees we think will enable us to bring in approximately—and I am at risk here because the administration hasn't concurred in these numbers yet—approximately 600 additional officers to the broad agenda of improving our delivery of services in districts and

in the service centers. I would assume that at least a third, probably 40 percent, of those will be dedicated to naturalization. We are doing two things: Directly hiring additional people for naturalization, but more importantly, as we centralize activities in service centers and as we consider contractual support for certain activities, we are freeing up our highly skilled, trained officers in districts to do naturalization work. We are hoping to continue to move activities to service centers during this period and that all remaining employees in the districts will be able to focus on adjustments in naturalizations.

Mr. BECERRA. Let me ask you, and I will try to be specific and see if I can have you be specific as well and brief, because I have so many questions I would like to ask—I would like to inquire further, if not during hearings but maybe perhaps through written correspondence or informally—inquire why we would spend moneys that are being directed from people who are becoming naturalized citizens for anything other than trying to help process them through as naturalized citizens and future citizens.

It seems to me given the dramatic increase in applications and the overwhelming status that INS faces with regard to trying to process these claims, that we would want to pay some attention to people who are paying a fee for exactly that purpose, and whether it is 40 percent or a little bit more, I would think that we should be approaching 100 percent of those fees, if not from just that 245 program, from other sources as well given that these immigrants are paying these fees for that service.

Ms. SALE. Naturalizations work today is in the order of—I want to say receipts are probably about 6 or 700,000 a year, relative to 2½ million receipts in all other activities that are funded by the exams fee account. We necessarily need to balance our efforts to deliver services to all of the people that are paying fees in a way that is proportionate to the work that is being received.

Mr. BECERRA. I see my time is running. If we do have a chance for additional questions, then I will perhaps have a chance to inquire further.

Ms. SALE. And I would be happy to offer a separate briefing on some of these issues for anyone on the staff.

Mr. BECERRA. Thank you.

Mr. SMITH. Let me say to the gentleman from California that there will be time for additional questions, and I am planning to start right now, and we will go another round.

Ms. Sale, I would like to go back to the subject of criminal aliens, particularly the criminal aliens that are now in our Federal prison system. Do you concur with the figure that I mentioned in my opening remarks that about 25 percent of the Federal prisoners in the United States today are criminal aliens and roughly 40 percent in Texas?

Ms. SALE. The estimates vary from year to year between 20 and 24 percent. We estimate today that there are about 15,000 criminal aliens in the Bureau of Prison facilities. I don't have a Texas number before me, sir, but the Urban Institute study identified 21,000 criminal aliens in the seven major States, and Texas would probably have been third on that list.

Mr. SMITH. OK. If you can—I think other members of the committee would be interested—get us the figures on the State-by-State breakdown.

Ms. SALE. I would be delighted to do so. They are published in the Urban Institute study, sir.

Mr. SMITH. OK. Not just the numbers but the percentage as well, if you would.

Ms. SALE. Absolutely.

Mr. SMITH. I appreciate that.

[The information follows:]

Q. What is the number and percentage of prisoners in state prisons (5 major states) who are criminal aliens?

INS district office staff conduct routine liaison with state corrections officials in the 5 major states, and provide that information to INS Headquarters. One of the items reported for each state is the prison system's foreign born population. That information is provided below for each of the 5 targeted states. These 5 states are estimated to have 73% of the foreign-born inmates nationwide.

Federal and state prison records do not distinguish between non-citizens and foreign-born. If an inmate lists a country of birth other than the United States, he is counted as a foreign-born inmate. Local INS offices are advised of the number of foreign-born inmates incarcerated in Federal and many state correctional institutions. The foreign-born inmates are then interviewed by INS officers to determine citizenship or alien status. Some are citizens, either born abroad to a U.S. citizen parent(s) or naturalized. For those determined to be deportable based on the interview, the INS agent completes a Record of Deportable Alien; conducts INS record checks, FBI fingerprint checks, and appeal status checks; obtains certified conviction records; and prepares the Order to Show Cause and Notice of Hearing.

Through past experience in these targeted correctional systems, INS officers have developed estimated percentages of the number of cases screened which result in the institution of proceedings. These estimates are provided below:

STATE	FOREIGN-BORN POPULATION	ESTIMATED PERCENTAGE DEPORTABLE	ESTIMATED NUMBER DEPORTABLE	DATE OF INFORMATION
California	26,712	80%	21,370	1/95
Florida	5,504	90%	4,954	1/95
Illinois	1,376	50%	688	1/95
New York	8,615	85%	7,323	1/95
Texas	8,800	80%	7,040	1/95
Subtotal	51,007	81%	41,316	1/95
45-State Estimate	18,919	81%	15,324	1/95
Nationwide Estimate	69,926	81%	56,640	1/95

Q. What percentage of federal prisoners are criminal aliens? What percentage of federal prisoners in Texas facilities are criminal aliens?

The Bureau of Prisons (BOP) has provided information on the number of persons not born in the United States who are housed in their institutions. As of February 10, BOP's total population (including those housed in halfway houses or contract detention facilities, Mariel Cubans, and U.S. Marshals detainees) was 95,997, of which 27,938 (29%) were born outside the United States or had an unknown country of birth.

These 27,938 persons are not all necessarily aliens or deportable. Some are citizens either through naturalization or by birth abroad to a United States citizen parent(s); others are lawful permanent residents who may be granted relief by an immigration judge. This number also includes foreign-born pre-trial detainees in U.S. Marshals custody, who may never be convicted of a crime, and non-list Mariel Cubans, who cannot currently be removed. Based on past experience in the Federal Institutional Hearing Program (IHP), we estimate that about 75% of those born outside the United States would be subject to deportation.

Of the 27,938 persons in BOP facilities who were not born in the United States, 5,643 are in facilities located in the State of Texas. The 5,643 foreign-born persons in BOP facilities in Texas represents 41% of the BOP population (13,611) in that state.

Mr. SMITH. The next question is, of the criminal aliens who are in Federal prisons across the country, what percentage of those criminal aliens have final deportation orders against them?

Ms. SALE. I will have to ask your indulgence in supplying that for the record, sir. We can tell you how many final orders of deportation we have against aliens that are foreign born. That may or may not include all deportable aliens because of this interview process and some of the complications that Mr. Becerra referred.

Mr. SMITH. What is that figure, and then you can get the other figure to me later on.

Ms. SALE. Persons with final order of deportation in facilities today?

Mr. SMITH. Foreign born with final orders of deportation against them prior to leaving prison.

Ms. SALE. I'm sorry, I don't know the number off the top of my head.

Mr. SMITH. OK. Would you want to guess as far as a percentage of the number of criminal aliens who are in Federal prison would have final orders of deportation against them? I mean is it a quarter, a half, three-quarters?

Ms. SALE. No. It would be utter speculation. It is simplistic. You need to remember that we are only now beginning to engage in these institutional hearing programs in a massive way, and the number probably varies between, for instance, California and New York and certainly Texas. Texas has a very aggressive program that provides counsel to the aliens, and we are far, far better able to move people through the system of deportation hearings in Texas than we are anywhere else.

Mr. SMITH. OK. If you don't know the first figure, you would also not know then what percentage of criminal aliens have final deportation procedures against them executed prior to their exit from prison. You wouldn't know that figure either.

Ms. SALE. I apologize. We may have the figures, Mr. Smith. I just don't have them in my brain.

Mr. SMITH. I hope you do. I have to say to you, according to what we read and see, one of the great examples, frankly, of mismanagement in the INS is the fact that on such a crucial subject as criminal aliens they don't have the figures. So I am hoping you can provide those to me.

It seems that if there is any group of individuals who are in this country wrongfully that we could all agree upon, it would be the need to make sure that criminal aliens are not out on the streets where they commit additional crimes and that we know how many there are and where they are.

Ms. SALE. And as you well know, our focus is to try to catch them while they are still in State and Federal jails so that they can go home from there, catch them in the context of getting before a deportation hearing as well. I mean you first have to identify their alienage, determine their alienage, then you have to determine if they are deportable, subject to deportation, and then they have to go through a hearing.

Mr. SMITH. What programs—I am late in giving myself some time here, not intentionally—what programs does the INS oversee

now that would identify criminal aliens in both State and Federal prisons?

Ms. SALE. The institutional hearing program that I have referred to in the past which Congress gave us resources to implement in the second half of this fiscal year and for which we have memorandums of understanding with New York, Texas, Florida, California, and Illinois, puts our investigators in facilities to first interview foreign-born aliens and establish their alienage, then establish whether or not they are susceptible to deportability, and that is a function of the nature of their crime and whether or not they are legal permanent residents and a variety of other technical issues. Then they need to be scheduled for a hearing before an immigration judge, and we are working very hard in States other than Texas, where we really do have a good system for attorneys for the aliens, to make sure that that process happens timely.

Mr. SMITH. What percentage of the criminal aliens in the local and State jails would you feel that you are being able to identify now?

Ms. SALE. We expect that by the end of the year we will be substantially able to meet the need in Texas. I don't have a percentage in California off the top of my head, but we do have one, sir. In New York the State institutions are centralizing all of their foreign-born aliens to facilitate our ability to meet them.

Mr. SMITH. Are you targeting the high immigration States? Is that why you mention Texas——

Ms. SALE. Absolutely. We believe that 80 percent of the incarcerated criminal aliens are in these seven States, and so we are very, very focused on those particular States where we can get the most bang for the buck.

Mr. SMITH. And what is your goal again? By the end of the year you expect to identify what percentage of the criminal aliens in local and State jails?

Ms. SALE. In State jails, sir. We are not yet dealing with local jails.

Mr. SMITH. OK, State.

Ms. SALE. My understanding is that we fully believe that we will completely cover Texas, because Texas has offered to centralize their aliens.

Mr. SMITH. OK, 100 percent in Texas, you are saying?

Ms. SALE. That is what I have been led to believe, but we have yet to implement—we have yet to hire—Congress gave us money to hire new people, but they only gave us money to hire them in the second half of the year. So I mean we have to bring them on board and make them eligible to work before this actually can come to fruition.

New York is similarly centralizing their aliens, and we are already there moving into an institutional hearing program. This quarter in New York we have—well, last year in New York as a pilot we processed for deportation 3,000 aliens relative to 1,300 in 1993. With the additional funds that are coming in this year, I expect that we will be able to better that by a substantial amount.

Mr. SMITH. OK. What percentage of the criminal aliens who could be deported are being deported?

Ms. SALE. That are in jail today?

Mr. SMITH. That are in prison today, correct.

Ms. SALE. The number doesn't exist because we don't have the staff in all the jails that we need to have the staff in yet. We will have them at the end of the year.

Mr. SMITH. Wouldn't that be a top priority of the INS, to try to do something about criminal aliens, of all people?

Ms. SALE. It is.

Mr. SMITH. OK. Why is it we don't have the figures, and why is it that you are not committing the staff to that priority?

Ms. SALE. We have been committing the staff within the context of what we have available to do for smuggling, for sanctions work, for fraudulent document work, for violent gang work, and for terrorist work.

Mr. SMITH. But not criminal aliens?

Ms. SALE. Criminal aliens is a priority in that agenda. It is a high priority. INS has 1,800 officers, 300 of them dedicated to criminal alien work in the whole country. So we really are focusing on an enormous problem with a limited resource.

Mr. SMITH. Let me suggest that the INS could do a whole lot to improve their image of mismanagement if they did target the criminal aliens, knew what the figures were as far as how many there were, how many were deportable, how many had been deported. A lot of us who are concerned about the accompanying problems of crime in America and criminal aliens would, I think, be a lot happier. I would suggest that the INS make that a top priority, and I look forward to getting those figures from you as soon as possible. Let me just give you a deadline. My frustration in past years has been asking for information and then either never getting it or getting it much later. Can you get me the statistics that we referred to a few minutes ago by, say, next Wednesday, a week from today?

Ms. SALE. I will get you the ones that we have available, but I will be bold enough to remind you that we deported 22,000 criminal aliens last year.

Mr. SMITH. Right.

Ms. SALE. Many of those came out of institutions.

Mr. SMITH. And of the criminal aliens who could have been deported, what percentage is 22,000? That is what you don't know.

Ms. SALE. We haven't had the capacity to interview and make determinations about who is deportable. There haven't been hearings on most of these. The ultimate decision isn't ours.

Mr. SMITH. I am talking about the individuals who are in the same categories as the 22,000 you did deport. You don't know what the whole overall figure is, you just know you deported 22,000. You don't know how many you could have deported or how many should have been deported. Is that right?

Ms. SALE. It is almost as if you were asking the chief of police of Washington how many people are out there loose that are criminals that you haven't caught yet.

Mr. SMITH. I am not talking about that.

Ms. SALE. But that is sort of the nature of your question.

Mr. SMITH. I am not talking about that. What I am talking about—you had 22,000 people whom you deported.

Ms. SALE. Yes, sir.

Mr. SMITH. How many others were in that same category that could have been deported but were not deported? The same category. I am not talking about the huge universe of potential.

Ms. SALE. We will provide that for the record by next Wednesday.

Mr. SMITH. OK. Thank you.

[The information follows:]

Question: What percentage of the criminal aliens who could be deported are being deported?

Answer: We are deporting all criminal aliens who are in our custody at the time a final order of deportation is received. The exceptions are certain Cubans and Vietnamese nationals for whom we do not have the agreement of their government or a mechanism to return them.

As of January 1995, we estimate there are 97,864 incarcerated foreign born nationals in state and federal correctional facilities. Of that population, approximately 23,250 will be deported in FY–95, of which 8,250 will be deported through the institutional hearing process. In FY–96, we estimate 58,200 criminal aliens will be deported. Of that total, 23,700 will be deported at institutional hearing facilities.

Mr. SMITH. I will go to the gentleman from Texas for 5 minutes.

Mr. BRYANT of Texas. Ms. Sale, the New York Times reported that the INS had lacked a good structure for supervision and quoted the INS Chicago area office district director as saying he had not spoken to his boss in Washington in 2½ years. I just wonder if that is true, could be true, or, if it is not true, is there some reason why it is not relevant?

Ms. SALE. Well, I would frankly prefer you ask the INS district director in Chicago that question since I can't vouch for who he said it to or when he said it.

Mr. BRYANT of Texas. Who would his boss be?

Ms. SALE. In the time that that refers to, the boss was one of our career executives. I do have personal knowledge of conversations that occurred between that person who was then the boss and the director in Chicago because I participated in some of those meetings. I also have personal knowledge of several instances in which conversations occurred with special assistants in the Washington boss's office.

You know, I think we all like to have more attention than we get from our bosses, and that is a function of—that is a little bit of what you are seeing there. More importantly, we have changed the organizational structure since then so that there is someone who is in a far better chain of command situation to deal directly with any one of our line managers.

Mr. BRYANT of Texas. OK. Well, it was a problem; now it has been fixed.

Ms. SALE. Yes, sir.

Mr. BRYANT of Texas. All right. I don't have anymore questions.

Mr. SMITH. Thank you.

We will go the gentleman from California, Mr. Becerra, for 5 minutes.

Mr. BECERRA. Thank you, Mr. Chairman, and let me see how quickly we can both run through some questions and answers here.

On the naturalization issue, if I can, I think you have already indicated, it would be helpful for me to be able to sit down with you and others to go ahead and go through the fees and the accounts.

Ms. SALE. Delighted to do so.

Mr. BECERRA. Excellent.

In part of your testimony I think you mentioned in the written testimony on pages 15 and 16, that the INS is developing some hiring assessment instruments to help measure the competency of the people that are being brought on, and you mentioned that that instrument should be ready for implementation by late spring. The only question there is, is late spring a reliable date, target date, for us to hear that you will be implementing that instrument?

Ms. SALE. I have every reason to believe that the OPM, who is developing that, will deliver it and that we will be using it as part of the recruitment strategy for this upcoming hiring process.

Mr. BECERRA. But I am giving you a chance right now to tell us if late spring is too optimistic.

Ms. SALE. I have to rely on what was provided to me, and I have been told that that is a good date.

Mr. BECERRA. OK, so we will rely on that to be a good date as well.

Ms. SALE. Thank you.

Mr. BECERRA. There is some issue about the collecting of outstanding fees and appearance bond moneys that have been raised in various articles in newspapers, and so forth. I know that the minority staff clarified some issues regarding collecting fees from cruise carriers and airline companies, so I won't go into too much detail on that.

There is, I guess, an issue about appearance bond money that has not yet been collected. Let me just ask the question, do you have the staff and resources to go out there and collect moneys that are due that will be into our coffers to do the immigration work that you so desperately need to do?

Ms. SALE. When the GAO first identified this as a problem, we were not keeping track of who owed us money and sort of were collecting $7 million a year. Last year we collected $15 million a year, and we have a computer system that contains $24 million in receivables that we can show you a printout of it if you want, and that is in fact now giving us information so that we can add interest penalty payments and the like to our outstanding debtors. INS has fixed this problem.

Mr. BECERRA. So we are keeping tabs now on people.

Ms. SALE. Yes, sir.

Mr. BECERRA. I don't hear you saying then that you need any assistance from us, resources to hire people to help you collect those moneys.

Ms. SALE. As necessary or appropriate, those are embedded in all of the budget presentations that are prepared for next year as well.

Mr. BECERRA. OK.

The citizens advisory panel, which I know that is something that the Commissioner and others within the INS have been championing to help resolve some of the issues that have tarnished the imagine of the Border Patrol specifically but generally the INS, what can you tell me about the status of its being empaneled, and when will we hear?

Ms. SALE. You will hear today that, in fact, last week the Attorney General signed off on our nominations for the panel and on the

formal establishment of the panel. We will, I hope, have a very, very happy first meeting as soon as we can schedule it. This week's events overtook putting that on the calendar just yet, but you clearly will be among the first to formally be notified of it, Mr. Becerra. I know you have had a very high interest in this.

Mr. BECERRA. Thank you, and I would like to just continue to follow through with you on that one because that has been an interest of mine.

Ms. SALE. We are there.

Mr. BECERRA. Thank you.

With regard to the whole issue of some of the windfall dollars or the extra dollars that you found toward the end of the last fiscal year as a result of the fee accounts coming in with extra dollars, can you tell us how some of that extra money was used and specifically—well, specifically, was any of that extra money used to help in the cause of processing naturalization claims?

Ms. SALE. Absolutely.

Mr. BECERRA. It was?

Ms. SALE. Yes. The extra money in the exams fee account remaining available to INS to be used in the next year as part of its operating budget. We have, in fact, lifted a hiring freeze and moved to provide overtime money particularly for naturalization in all of our districts, and the reprogramming that I have referred to several times this morning will add full-time permanent staff to the clerical, records and adjudications staff to substantially improve our naturalization program.

Mr. BECERRA. The last point I would like to make is not so much a question but more a comment, and it relates to some of the issues that have been raised by some of the members of the committee and the chairman with regard to the whole issue of use of SSI by some of our legal immigrants who are here.

I want to make sure it is on the record that the Urban Institute did some research on this, I know the Federal Government has done research on this, and we have no evidence that there is abuse of the system by the elderly, and, Ms. Sale, I hope you would chime in if you know of anything that says that there is abuse.

We do know that, for example, after 10 years a number of legal permanent residents who do qualify for SSI never take advantage. Close to 50 percent or so never take advantage because they don't know they qualify. So I want to make sure it is on the record that lawful permanent residents are paying taxes that would go for providing some of these services like SSI. Most never take advantage even though they do qualify. It only goes to those who are aged, blind, or disabled, and when it comes to those who are aged, blind, or disabled, legal immigrants who are taking advantage of services under SSI for which they qualify, there has been no proof of any abuse that has been found by anyone either in the private sector or government that has done research on this issue. I don't know if you have any comment on that.

Ms. SALE. Mr. Becerra, you are far more eloquent on this than I am. I am not aware of any research that demonstrates abuse.

I think there is some confusion in general about the participation in these programs on the part of refugees—who generally come into the United States with an extraordinary history of very, very dif-

ficult circumstances or they wouldn't qualify for refugee status—and regular immigrants. In the instance of refugees, we do occasionally see in certain populations a higher rate of participation in benefit programs, but that may well be a function of very specific characteristics of our refugees who are very different and small, much smaller, in number than our other immigrants.

Mr. BECERRA. That is an instructive clarification, and I know that OMB and the Social Security Administration themselves have both found that they could not detect any type of abuse, dramatic abuse, being done by those who are legal immigrants and qualifying for SSI.

Thank you very much, Mr. Chairman, for the time, and thank you, Ms. Sale, for your testimony.

Ms. SALE. Thank you, sir.

Mr. SMITH. OK. I thank the gentleman from California for his questions and also for staying the duration of the subcommittee meeting.

Ms. Sale, I don't think we have any other questions for you. Thank you for being with us today, for testifying, and for answering most of our questions. We will wait for the rest of the answers in the next few days, as I understand it.

Ms. SALE. I very much appreciate your taking the time, Mr. Smith.

Mr. SMITH. OK. If there is no other business, the subcommittee stands adjourned.

[Whereupon, at 12 noon, the subcommittee was adjourned.]

APPENDIX

RESPONSES TO QUESTIONS ASKED MS. SALE, DEPUTY COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DURING THE HEARING

Q. What percentage of these criminal aliens (in federal or state facilities) have final orders of deportation?

Currently the INS uses the Deportable Alien Control System (DACS), which collects data on the all deportable aliens under docket control. It does not differentiate between criminal aliens in a federal or state prison nor report how many of these have final orders of deportation. However we have recently added data elements and developed management reports which, in the future, will have the capability to provide more complete information on criminal aliens.

It is important to know that most deportation hearings are held in the last months of an inmate's sentence. In California, for example, which has the greatest number of foreign-born inmates, the vast majority of hearings are conducted within the last 30-45 days of the inmate's sentence. The inmate is turned over to INS for removal soon after the hearing; thus, at any given time there are actually relatively few foreign-born inmates in California prisons with final orders of deportation. In New York, the enhanced IHP which has been in place since April 1994, had produced 862 final orders as of February 3, 1995 but we do not track how many of these cases are still in the New York prison system.

Q. If you don't know now how many of these prisoners are actually criminal aliens subject to deportation how many of these will you have so identified by the end of the year?

Several initiatives are underway which will improve identification of criminal aliens subject to deportation in state and federal prisons . These initiatives include implementation of enhanced institutional hearing programs in the 5 targeted states having 73% of the alien felons and in the federal Bureau of Prisons system; the State Criminal Alien Assistance Program (SCAAP) administered by the Office of Justice Programs (OJP); and improved implementation of Section 507 of the Immigration Act of 1990 (IMMACT 90).

Enhanced IHPs: By the end of FY 1995, we will have implemented enhanced Institutional Hearing Programs in each of the 5 targeted states. Our goal is to staff a limited number of intake, hearing, and release sites in each of the 5 states. At the intake sites, INS agents will screen foreign-born inmates as they enter prison. Immigration judges and INS staff will be assigned to hearing sites as necessary. We are also encouraging the states to reduce the number of release sites to the extent possible so that INS officers do not have to travel to every state institution to pick up deportable inmates upon completion of their sentences.

State Criminal Alien Assistance Program: INS is working closely with OJP on implementation of SCAAP. Under this program, states are required to identify inmates which they believe to be deportable criminal aliens for reimbursement purposes. Subject to INS verification, states will be reimbursed for some portion of the costs associated with the incarceration of the illegal alien felons within this population. INS is working with OJP and the states to ensure that the data is submitted in a format which will facilitate matchingand aid in identification.

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IMMACT 90 - Section 507: This provision of the law required each state to establish a plan to provide INS with notices of conviction for aliens convicted of violating State laws. State plans were also to include a mechanism to provide, within 30 days of request, certified copies of conviction documents to INS. States have generally complied with the requirement that they submit a plan. Actual implementation of the plans to provide certified conviction records to INS has, however, not been universal. While some states have complied fully, others have not. INS continues to seek the compliance of the remaining states. Fuller compliance with the provisions of Section 507 would provide INS with earlier information on criminal aliens convicted of state crimes, permitting case processing to begin sooner. Additionally, it would provide information on foreign-born persons sentenced only to probation or time-served. With current resource, we have not yet been able to address this population.

Q. Of all the criminal aliens whom you have identified, what percentage are being deported? You deported 22,000 criminal aliens last year. How many could have been deported because they had final orders but you had released them?

In FY1994, about 45,000 criminal aliens were issued Orders to Show Cause (OSCs) placing them in deportation proceedings. OSCs are not defined by a specific year, e.g. a 1994 OSC could result in an acutual deportation in 1995, 1996 or later due to the pattern of holding hearings first on felons nearing the completion of their sentences. Actual deportations can also be delayed by the lengthy process of administrative and judicial appeal, particularly for alien felons who had lawful permanent resident status. Thus, a percentage of these 45,000 are still serving sentences and may not be scheduled for deportation hearings for several years. Others are still in the hearing or appellate process.

Approximately 7,800 aliens were released on bond in FY 1994 and some number of them were criminal aliens with final orders. Detention of aggravated felons is the agency's highest detention priority since we are prohibited by statute from releasing aggravated felons unless they were lawfully admitted to the United States. Each case is carefully reviewed before a custody determination is made, and only those lawfully admitted criminal aliens likely to appear at any future scheduled appearances and determined not a threat to the community are released. However, if a lawfully admitted alien felon has completed his sentence, Section 242 of the INA does require that a bond be set, with the amount subject to review by an immigration judge.

The Deportable Alien Control System does not presently produce a report separating criminal alien abscondees from other alien abscondees. The INS Office of Management has initiated a vigorous Debt Collect Program which presses bond guarantors for payment and sometimes results in information on the abscondees themselves.

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